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federal register

Tuesday
November 12, 1985

Briefings on How To Use the Federal Register
For information on briefings in Atlanta, GA, and Philadelphia, PA, see announcement on the inside cover of this issue.

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Selected Subjects

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Telephone
Rural Electrification Administration

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

ATLANTA, GA

WHEN: Nov. 21; at 1 pm.
Nov. 22; at 9 am. (identical session)

WHERE: Room LP-7,
Richard B. Russell Federal Building,
75 Spring Street, SW., Atlanta, GA.

RESERVATIONS: Deborah Hogan,
Atlanta Federal Information Center.
Before Nov. 12: 404-221-2170
On or after Nov. 12: 404-331-2170

PHILADELPHIA, PA

WHEN: Dec. 17; at 1 pm.
Dec. 18; at 9 am. (identical session)

WHERE: Room 3306/10
William J. Green, Jr., Federal Building,
600 Arch Street, Philadelphia, PA.

RESERVATIONS:
Laura Lewis,
Philadelphia Federal Information Center,
215-597-1709

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Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1032

[Docket No. AO-313-A33]

Milk in the Southern Illinois Marketing Area; Order Amending

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action amends the location pricing provisions of the Southern Illinois order to reinstate the same location value of milk at plants in the St. Louis metropolitan area that applied at such plants under the former St. Louis-Ozarks order, which was terminated on April 1, 1985. The changes were proposed by six dairy cooperatives that represent about 90 percent of the producers who supply milk to the Southern Illinois market, and is based on the record of a public hearing held on April 30, 1985, in Bridgeton, Missouri. The action is necessary to assure that an adequate supply of milk for fluid use will be shipped to distributing plants in the St. Louis metropolitan area. Dairy farmers through their respective cooperative assocations have approved the issuance of the amended order.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing: Issued April 12, 1985; published April 18, 1985 (50 FR 15432).

Recommended Decision: Issued August 20, 1985; published August 26, 1985 (50 FR 34491).

Final Decision: Issued October 15, 1985; published October 21, 1985 (50 FR 42549).

Findings and Determinations

The following findings and determinations hereinafter set forth supplement those that were made when the Southern Illinois order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Illinois marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order amending the order is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Dairy products.

Order Relative to Handling

It is therefore ordered, That on and after the effective date hereof, the handling of milk in the Southern Illinois marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

The authority citation for Part 1032 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

1. Section 1032.2 is revised to read as follows:

§1032.2 Southern Illinois marketing area.

"Southern Illinois marketing area," hereinafter called the "marketing area", means all the territory within the following counties, all of which are in the State of Illinois, together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

Base Zone

Bond, Calhoun, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Edwards, Effingham, Fayette, Greene, Jasper, Jefferson, Jersey, Lawrence, Macoupin, Madison (Alton Township only), Marion, Montgomery, Richland, Shelby, Wabash, Washington, and Wayne.

Northern Zone

Champaign, De Witt, Douglas, Edgar, Logan, Macon, McLean, Menard, Morgan, Moultrie, Piatt, Sangamon and Vermilion.

Southern Zone

Franklin, Hamilton, Jackson, Madison (except Alton Township) Monroe, Perry, Randolph, Saline, St. Clair (except Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the city of Belleville), White and Williamson.

2. In § 1032.50, paragraph (a) is revised to read as follows:

§1032.50 Class prices.

* * * * *

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.53.

* * * * *

3. In § 1032.52, paragraph (a)(1), (2) and (3) is revised to read as follows:

§1032.52 Plant location adjustments for handlers.

(a) * * *

(1) For a plant located within one of the zones designated in § 1032.2, the adjustment shall be as follows:

Zone	Adjustment per hundredweight
Base Zone	No adjustment.
Northern Zone	Minus 7 cents.
Southern Zone	Plus 7 cents.

(2) For a plant located outside the marketing area but in any of the following territory the adjustment shall be as follows:

(i) Plus 7 cents. St. Clair County (Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the city of Belleville only) in the State of Illinois and the counties of Jefferson, St. Charles and St. Louis and the city of St. Louis in the State of Missouri.

(ii) Minus 7 cents. In the State of Illinois and south of the northern boundaries of Adams and Schuyler counties (except for the territory in St. Clair County, Illinois specified in paragraph (a)(2)(i) of this section) and in the counties of Fountain, Parke, Vermillion and Warren in the State of Indiana.

(3) For a plant located outside the marketing area and the area described in paragraph (a)(2) of this section, the adjustment shall be minus 15 cents for any such plant located 100 miles or more from the city or village limit of Alton, Robinson, or Vandalia, Illinois, whichever is nearest, and minus and additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.

* * * * *

§1032.70 [Removed]

4. In § 1032.70, paragraph (b) is removed.

Effective date: January 1, 1986.

Signed at Washington, DC, on: November 6, 1985.

Karen K. Darling,

Deputy Assistant Secretary Marketing & Inspection Services.

[FR Doc. 85-26866 Filed 11-8-85; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1772

REA Bulletin 345-89, REA Specification for Filled Telephone Cables with Expanded Insulation, PE-89

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by issuing a revised REA Bulletin 345-89, REA Specification for Filled Telephone Cables with Expanded Insulation, PE-89. The specification has been expanded to include the material and performance requirements for: (1) 19 American Wire Gauge (AWG) conductors; (2) cable pair sizes below 200 pairs; (3) service pairs in screened cables; (4) cables designed to operate on carrier systems with a 3.152 Mb/s bite rate (T1C); and (5) the raw materials used in insulating the conductors and jacketing the cables. In addition, the specification increases the filling compound flow test temperature from 65°C to 80°C. This impacts REA borrowers in that they will be able to install a full range of filled telephone cables with expanded insulation at reduced cable costs without degradation in cable quality. It affects petroleum producers in that it decreases the consumption of petroleum used in telephone cables thereby preserving natural resources. Finally, it will not adversely affect cable manufacturers because no design changes in presently manufactured products will be required.

EFFECTIVE DATE: October 31, 1985.

FOR FURTHER INFORMATION CONTACT: M. Wilson Magruder, Director, Telecommunications Engineering and Standards Divisions, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 382-8663. The Impact Analysis describing the options considered in developing this rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.) REA hereby amends 7 CFR 1772.97, Incorporation by Reference of Telephone Standards and Specifications, by incorporating by reference a revised Bulletin 345-89 (Previous issue dated February 1, 1982), REA Specification for Filled Telephone Cables with Expanded Insulation, PE-89. Copies of the bulletin are available upon request from the address stated above. It is also available for inspection at the Office of the Federal Register Information Center, Room 8401, 1100 L Street, NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Federal Register on December 30, 1983. These materials are incorporated as they existed on the date of the approval and a notice of any change in these materials will be published in the **Federal Register.** The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovations, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and therefore has been determined to be "not major". This action does not fall within the scope of the Reguatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.* (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final rule related Notice to 7 CFR Part 3015, Subpart V (48 FR 54317, December 1, 1983), this program is excluded from the scope of Executive Order 12372 which requires

intergovernmental consultation with State and local officials.

Copies of the document are available upon request from the address indicated above.

Background

REA is revising its Specification for Filled Telephone Cables with Expanded Insulation which is used by REA telephone borrowers in the construction of outside plant facilities. The specification covers the minimum requirements for filled telephone cables with expanded insulation intended for direct burial, underground and aerial applications for use in REA financed facilities. The conductors are solid copper, individually insulated with an extruded cellular insulating compound which may be either totally expanded or expanded with a solid skin coating. The cables are used as the transport media for transmission of voice, data pictures and signals between telephone subscribers.

The current REA Specification PE-89 (REA Bulletin 345-89) covered the material and performance requirements for only cable pair sizes 200 and above. The limitation was placed on cables with expanded insulation because the design was a radical departure from a solid insulation. REA wanted to control its initial installation by REA borrowers in REA financed facilities until further field studies could be performed by REA to detemine if the cable with expanded insulation was performing satisfactory and that there was no sacrifice in quality. Field studies conducted by REA have been completed and indicate that filled cables with expanded insulation in all gauge sizes and pair sizes have been providing satisfactory field service without a sacrifice in quality.

The current specification also does not allow service pairs in screened cables because the majority of REA borrowers have a small subscriber base and have not needed the full carrier transmission capacity that a screened cable provides. Therefore, all the cable pairs were not utilized for carrier transmission which allowed unused pairs to be used as service pairs. With REA borrowers' continuing growth, there is a greater probability that all screened cable pairs will not be used for carrier transmission necessitating REA approval of the use of service pairs for voice order and interrogation functions.

The current specification does not include requirements for cables designed to transmit a digital line running at 3.152 million bits per second (this is the industry designated T1C carrier system). Up until now there was very little demand for transmission links on REA borrower systems that were capable of handling this high bit rate. Technology, however, is changing and so are the services that the REA borrowers are required to provide. Many of the subscribers are now asking for data communications, digital facsimile and video teleconferencing tariffs. To be sure that cables used for current and future T1C installations are of the highest quality, REA is incorporating requirements into the specification for cables intended for T1C carrier applications.

The current specification requirement that the filling compound will not flow or drip at 65 °C limits the installation of cables of the expanded insulation type to direct burial and underground applications. REA has decided to allow filled cable with expanded insulation for aerial installation as well as direct burial and underground applications because air core cable installed aerially does have problems with regard to moisture ingress which results in loss of service and high maintenance costs to REA borrowers. This cable was chosen for aerial installation because of its reduced weight and smaller size in comparison to conventional filled cable containing solid insulation. REA's problem with installing this type of cable in the air is the possibility of filling compound separation and the possible dripping of the compound when subjected to thermal cycling. To end these problems REA is requiring the filling compound to comply with a compound flow requirement of 80 °C drip temperature.

The reason that raw material insulating and jacketing requirements are not in the existing specification is that these requirements are covered by REA Specifications PE-200 and -210. REA incorporated the raw material requirements covered by these two specifications into the revised REA Specification PE-89. REA will be incorporating the applicable raw materials requirements in REA Specifications PE-200 and PE-210 into all the wire and cable specifications as they are revised. When this has been accomplished PE-200 and PE-210 will be withdrawn.

This action establishes REA requirements for filled cables with expanded insulation without affecting current designs or manufacturing techniques of cable manufacturers. This action also affects REA borrowers in that they will be able to install a full range of filled telephone cable with expanded insulation at reduced cable cost without degradation in cable quality. It will affect petroleum producers in that it will decrease the consumption of petroleum in telephone cables.

A Notice of Proposed Rulemaking was published in the Federal Register on July 9, 1984, Volume 49, No. 132, page 27952. Several interest parties commented on this proposal. A summary of the areas addressed in their comments is as follows:

1. Insulating and jacketing raw material requirements should be eliminated from the specification because they are not end-product performance requirements.

2. Spark test voltages for determining conductor insulation faults should be decreased.

3. The average capacitance unbalance-to-ground requirement for 24 and 26 AWG insulated conductors should be increased.

4. Tighter near-end crosstalk (NEXT) levels at 772 kHz for T1 screened cable compared with industry stated levels should not be required.

5. The filling compound should not be required to satisfy an 80 °C drip temperature.

REA's response to these comments is summarized as follows:

1. REA has to the fullest extent possible tried to specify requirements based on end-product performance in REA specifications. However, there are certain areas in the specifications which REA believes manufacturing requirements are needed in addition to the end-product requirements to define a quality product. One of these areas is materials. The reason for the incorporation of raw material requirements is REA's determination that end-product material performance requirements do not safeguard against the use of inferior raw materials. Until REA can be assured that these present end-product material requirements will preclude the use of inferior raw materials, REA will not eliminate the insulating and jacketing raw material requirements for REA borrower use from the specification.

In addition, REA has revised some of the raw material requirements to reflect current raw material properties and to allow for the development of newer raw materials. The revisions are as follows:

a. The basic propylene/ethylene copolymer resin was changed from Type II-45000 per ASTM D 2146-80 to Type II-44000 per ASTM D 2146-80 with one exception. That one exception is the elimination of the lower melt flow rate value specified by the "4" in the first digit of the 44000 per ASTM D 2146-80. This exception will allow the melt flow rate for the resin to range from 0 to 5, maximum.

b. Revised the dielectric constant of the polyethylene resin from a range of 2.3 to 2.4 to only a maximum of 2.4. Also revised the dielectric constant of the propylene/ethylene copolymer resin from a maximum of 2.27 to a maximum of 2.3.

c. Revised the "Melt Flow Rate" requirement to eliminate excessive wordiness.

d. Revised the "Tensile Strength and Ultimate Elongation" requirement to allow for testing in accordance with ASTM D 1708–79.

e. Allowance of Linear Low Density, High Molecular Weight Polyethylene (LLDHMW) jacket raw material.

f. Combined the LDHMW Polyethylene, the LDHMW Ethylene Copolymer and the LLDHMW Polyethylene raw materials into one column with a Low Density (LD) Polyethylene heading. Also, under the LD Polyethylene heading, REA changed the brittleness requirement from 4/10 to 2/10 maximum failures and the environmental stress crack resistance requirement from 2/10 to 0/10 maximum failures.

2. The spark test voltages used to determine conductor insulation faults in the revised specification are the same voltages that independent cable manufacturers have standardized on for spark testing of expanded insulation. In addition, manufacturers producing filled cables with expanded insulation in accordance with the current specification have been using these voltages for over four years without any reports that these voltages are inducing excessive faults into the insulation. Therefore, REA has made a decision to not change the spark test voltage levels.

3. REA will not increase the average capacitance unbalance-to-ground requirement for 24 and 26 AWG insulated conductors because REA has had major noise problems on some REA financed telephone borrowers' systems as a result of the capacitance unbalance-to-ground values that complied with the old requirements for solid insulated conductors. The solution to these problems was a very tedious process which resulted in subscriber hook-up delays and loss of revenues to these REA borrowers. It is REA's decision that a relaxation of the requirement for any gauge size could result in major noise problems resurfacing, resulting in undue economic hardships on those problem systems. It is noteworthy that since REA has required the tighter average capacitance unbalance-to-ground requirements no major noise problems have surfaced on REA borrowers' systems.

4. REA will require the tighter NEXT values for T1 screened cables for the following reasons:

a. The original digital system engineering rules were based on three spans in tandem; today's systems often exceed three spans in tandem.

b. The additional 3 dB NEXT margin provides for the following: (a) 48 channel duobinary and ternary encoded systems; (b) the engineering of T1 Subcriber systems which are not as "pure" as T1 trunk systems and (c) new digital subscriber systems under development where NEXT requirements are not yet defined. Since the 3 dB NEXT margin can be of value in meeting both present and future digital system needs, REA will require the higher NEXT levels at 772 kHz.

5. REA will require that the filling compound to comply with an 80 °C drip temperature to avoid filling compound separation when this cable is installed in aerial applications. Compound separation cannot be tolerated in cellular insulated cables because there is the possibility of oil migration into the cells which will change both the physical and electrical characteristics of the insulation. There is also the possibility that the voids left by the migrating oils from the filling compound will offer sites for water collection which will certainly change the electrical characteristics of cable. Because of these reasons REA will require the 80 °C flow requirement of the filing compound for expanded-insulated filled cable.

List of Subjects in 7 CFR Part 1772

Loan programs—Communications, Telecommunications.

* * * * *

PART 1772—[AMENDED]

In view of the above, REA hereby amends 7 CFR Part 1772 by issuing a revised REA Bulletin 345–89.

1. The authority citation for Part 1772 is revised to read as follows:

Authority: 7 U.S.C. 901 et seq.; 7 U.S.C. 1921 et seq.

2. Section 1772.97 is amended by adding the entry 345–89 to read as follows:

§ 1772.97 Incorporation by reference of telephone standards and specifications.

* * * * *

REA Bulletin No.	Specification No.	Date last issued	Title of standard or specification
*	*	*	* *
345–89	PE–89	Oct. 31, 1985	REA Specification for filled Telephone Cables with Expanded Insulation.
*	*	*	* *

Dated: October 31, 1985.

Jack Van Mark,

Acting Administrator.

[FR Doc. 85–26752 Filed 11–8–85 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 21, and 73

Change in Region II Telephone Number

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to indicate a change in the commercial telephone number for the NRC Region II Office located in Atlanta, Georgia. These amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: November 12, 1985.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–492–7086.

SUPPLEMENTARY INFORMATION: Effective November 12, 1985, the commercial telephone number for the NRC's Region II office will be changed from 404–221–4503 to 404–331–4503. In addition, on November 12 all Region II offices with telephone numbers that begin with the current prefix "221" will be changed to the new prefix "331".

Because these amendments deal with agency practice and procedures, the notice provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 533(b)(A). The amendments are effective upon publication in the Federal Register. Good cause exists to dispense the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing solely with agency procedures.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule in the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501. et seq.).

List of Subjects

10 CFR Part 20

Byproduct material, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 21

Nuclear power plants and reactors, Penalty, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 73

Hazardous materials—transportation, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Penalty, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 20, 21, and 73.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5841).

Appendix D—[Amended]

2. In Appendix D, the commercial telephone number for the NRC Region II Office (Atlanta, Georgia) is changed from (404) 221-4503 to (404) 331-4503.

PART 21—REPORTING OF DEFECTS AND NONCOMPLIANCE

3. The authority citation for Part 21 is revised to read as follows:

Authority: Sec. 161, 68 Stat. 948, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2201, 2282); secs. 201, as amended, 206, 88 Stat. 1242, as amended, 1246 (42 U.S.C. 5841, 5846).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 21.6, 21.21(a), and 21.31 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§21.21, 21.41, and 21.51 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

§ 21.2 [Amended]

4. In footnote 1 to § 21.2, the commercial telephone number for the NRC Region II Office (Atlanta, Georgia) is changed from (404) 221-4503 to (404) 331-4503.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

5. The authority citation for Part 73 continues to read as follows:

Authority: Sec. 161, as amended (42 U.S.C. 2201); sec. 201, as amended (42 U.S.C. 5841).

Appendix A—[Amended]

6. In Appendix A, the commercial telephone number for the NRC Region II Office (Atlanta, Georgia) is changed from (404) 221-4503 to (404) 331-4503.

Dated at Bethesda, Maryland this 5th day of November 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-26821 Filed 11-8-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-ANE-29; Amdt. No. 39-5163]

Airworthiness Directives; Allison Gas Turbine Division, General Motors Corporation, Allison Model 250-C30 Series Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective by individual telegrams to all known U.S. owners and operators of certain Allison Model 250-C30 and -C30S engines installed in Sikorsky Model S-76A helicopters and, with appropriate revision, also supersedes AD 83-22-05 dated November 8, 1983, applicable to certain Allison Model 250-C30 Series engines. The AD requires turbine modifications and removal, before further flight for Sikorsky S-76A installations, of turbine-to-compressor-coupling P/N 23008080 and replacement with P/N 23032345 or, as alternative temporary compliance reinstallation/continuation in service of P/N 6896895 or P/N 6889071 couplings. The AD is needed to prevent possible failure of turbine-to-compressor-coupling P/N 23008080 and turbine shafting rub/misalignment that could lead to an overspeed uncontained failure of the gas producer turbine rotor of certain Model 250-C30 Series engines.

DATES: Effective November 18, 1985, to all persons except those persons to whom it was made immediately effective by telegraphic AD (TAD) T84-24-54, issued December 10, 1984, which contained this amendment.

Compliance schedule—As prescribed in the body of the AD. Incorporation by Reference—Approved by the Director of the Federal Register as of November 18, 1985.

ADDRESSES: The applicable service bulletins (SB's) may be obtained from Allison Gas Turbine Division, General Motors Corporation, P.O. Box 420, Indianapolis, Indiana 46206-0420.

A copy of each SB is contained in the Rules Docket at the Office of Regional Counsel, FAA, Attn: Rules Docket No. 84-ANE-29, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Royace H. Prather, Chicago Aircraft Certification Office, Propulsion Branch, ACE-140C, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018; telephone 312-694-7132.

SUPPLEMENTARY INFORMATION: On December 10, 1984, TAD T84-24-54 was issued and made effective immediately to all known U.S. owners and operators of certain Allison Model 250-C30 and -C30S engines installed in Sikorsky Model S-76A helicopters. The TAD required removal of turbine-to-compressor-coupling P/N 23008080 before further flight. Allison message THO-2435W-NJB-84 dated December 11, 1984, approved by the Manager, Chicago Aircraft Certification Office (ACO), clarified that the TAD only applied to Model 250-C30 and -C30S engines incorporating P/N 23008080 and authorized the reinstallation/continuation of serviceable P/N 6896895 couplings subject to the turbine

shafting/coupling inspection requirements of AD 83–22–05. Allison Commercial Engine Alert Bulletin 250–C30, –C30S CEB–A–72–3134, Revision 1 dated January 15, 1985, approved by the Manager, Chicago ACO, authorized P/N 23032345 as the replacement to P/N 23008080 subject to a repetitive 300-hour turbine shafting/coupling inspection being conducted in accordance with Allison CEB–A–72–3108. P/N 6896895 or P/N 6889071 were retained as temporary alternative compliance methods until the next turbine repair/overhaul shop visit. TAD action was necessary to prevent possible axial fatigue cracks, that could originate in the thumbnail notch of the aft end of turbine-to-compressor-coupling, from progressing to a point where a disconnect failure could occur. A turbine-to-compressor-coupling disconnect will result in an inflight shutdown or possible overspeed uncontained failure of the gas producer turbine rotor.

This AD also incorporates corrective actions to prevent possible N_1 shafting misalignment and the requirements of AD 83–22–05, with additional 250–C30 models added, to prevent possible carbon buildup and subsequent shafting/coupling rub that can cause N_1 shafting disconnects and/or overspeed uncontained failures of the gas producer turbine rotor.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued December 10, 1984, to all known U.S. owners and operators of certain Allison Model 250–C30 and –C30S engines installed in Sikorsky S–76A helicopers. If the TAD has not been complied with, then these conditions could still exist. Therefore, the AD, with appropriate revision to clarify and delineate final corrective action of TAD 84–24–54, and supersedure of AD 83–22–05, in addition to incorporation of service documents, is hereby published in the **Federal Register** as an amendment to Part 39 of the Federal Aviation Regulations (FARs) to make it effective to all persons.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects in 14 CFR Part 39

Air transportation, Engines, Aircraft, Aviation, safety, Incorporation by Reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA amends Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.89.

2. By adding the following new AD to § 39.13:

Allison Gas Turbine Division, General Motors Corp. (Allison, formerly Detroit Diesel Allison): Applies to Allison Model 250–C30 Series engines installed in rotorcraft certificated in any category with the following engine and turbine serial numbers:

Model	Engine series No.	Turbine serial No.
250–C30	CAE 900001 through 9000026	CAT 900001 through 90683, 95001 through 95336, 95338 through 95347, 95349, 95350, 95352 through 95365, 95368, 95370, 95372 through 95374, 95376 through 95394, 95396, 95398 through 95407.
250–C30, –C30S	CAE 890001 through 890840, 890843 through 890847, 890849 through 890858, 890860, 890861, 890863.	Same as above.
250–C30R	CAE 895068, 895077, 895078, 895082, 895084, 895085, 895096.	Same as above.
250–C30P	CAE 895001 through 895177	Same as above.

Except: Existing Model 250–C30 Series engines which have incorporated all of the following Allison Commercial Engine Bulletins (CEB's):

	Subject
CEB–A–72–3134, Rev. 2 dated Sept. 15, 1985, or CEB–A–72–3135, Rev. 1 dated Sept. 15, 1985, or FAA approved equivalents; and	Engine, Turbine Assembly, Turbine-to-Compressor Coupling Shaft-Replace.
CEB–72–3100, Rev. 1 dated Sept. 15, 1985, or FAA approved equivalent; and	Engine, Compressor Assembly, Spur Adapter Gearshaft—modified by adding Three Slots in Bore & Plugging Oil Feed Hole.
CEB–72–3059, Rev. 4 dated Sept. 15, 1985, or FAA approved equivalent; and	Engine, Compressor and Gearbox Assemblies—modify to Roller Number 2½ Bearing Configuration.
CEB–72–3096, Rev. 1 dated Sept. 15, 1985, or FAA approved equivalent.	Engine, Turbine-Exhaust Collector Modifications.

Compliance is required as indicated unless already accomplished.

To prevent possible cracks in turbine-to-compressor-coupling P/N 23008080, or carbon buildup on turbine shafts and couplings that can cause shaft rub, or shafting misalignment from progressing to where a disconnect failure could occur and subsequently could result in an overspeed uncontained failure of the gas producer turbine rotor, accomplish the following:

(a) *Model 250-C30 and –C30S engines installed in Sikorsky S–76A rotorcraft.*

(1) Before further flight, remove P/N 23008080 coupling and replace with P/N 23032345 in accordance with Allison CEB–A–72–3134, Revision 2 dated September 15, 1985, or FAA appproved equivalent; or, as alternative temporary compliance, until next turbine repair/overhaul shop visit, but not later than November 30, 1986, replace P/N 23008080 coupling with serviceable P/N 6896895, or P/N 6889071, in accordance with Allison CEB–A–72–3134, Revision 2 dated

September 15, 1985, or FAA approved equivalent.

(2) Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished within the last 250 hours time-in-service, and thereafter at intervals not to exceed 300 hours time-in-service from the last inspection, perform the following:

Inspect, clean turbine shafting/couplings, and replace the P/N AS 3085-018 O-ring (two for P/N 23032345 and one for P/N 6896895 or P/N 6889071) on the aft end of the spur adapter gearshaft in accordance with CEB-72-A-3108, Revision 3 dated September 15, 1985, or FAA approved equivalent.

(3) At the next engine repair/overhaul shop visit, when both the compressor and gearbox are disassembled to permit access, but not later than November 30, 1986, perform the following:

(i) Modify spur adapter gearshaft assembly P/N 23005276 in accordance with Allison CEB 72-3100, Revision 1 dated September 15, 1985, or FAA approved equivalent.

(ii) Modify engine compressor and gearbox assemblies to include the roller bearing configuration at the 2½ bearing location in accordance with Allison CEB 72-3059, Revision 4 dated September 15, 1985, or FAA approved equivalent.

(iii) Replace turbine-to-compressor-coupling, P/N 6896895, or P/N 6889071, with P/N 23032345 and install two P/N AS 3085-018 O-rings on the aft end of the spur adapter gearshaft in accordance with Allison CEB-A-72-3134, Revision 2 dated September 15, 1985, or FAA approved equivalent.

(4) At the next turbine repair/overhaul shop visit, but not later than November 30, 1986, modify the turbine-exhaust-collector in accordance with Allison CEB 72-3096, Revision 1 dated September 15, 1985, or FAA approved equivalent.

(b) *Model 250-C30, -C30P, -C30R and -C30S engines installed in other than Sikorsky S-76A rotocraft.*

(1) Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished within the last 250 hours time-in-service, and thereafter at intervals not to exceed 300 hours time-in-service from the last inspection, perform the following:

Inspect, clean turbine shafting/couplings, and replace the P/N AS 3085-018 O-ring (two for P/N 23032345 and one for P/N 6896895 or P/N 6889071) on the aft end of the spur adapter gearshaft in accordance with CEB-A-72-3143 dated September 15, 1985, or FAA approved equivalent.

(2) Within the next 300 hours time in service after the effective date of this AD, unless already accomplished, or at next turbine repair/overhaul shop visit, but not later than November 30, 1987, whichever occurs first, perform the following:

Replace turbine-to-compressor coupling P/N 23008080 with P/N 23032345 and install two P/N AS 3085-018 O-rings on the aft end of the spur adapter gearshaft in accordance with Allison CEB-A-72-3135, Revision 1 dated September 15, 1985, or FAA approved equivalent.

(3) At the next engine repair/overhaul shop visit when both the compressor and gearbox are disassembled to permit access, but not later than November 30, 1987, perform the following:

(i) Modify spur adapter gearshaft assembly P/N 23005276 in accordance with Allison CEB 72-3100, Revision 1 dated September 15, 1985, or FAA approved equivalent.

(ii) Modify engine compressor and gearbox assemblies to include the roller bearing configuration at the 2½ bearing location in accordance with Allison CEB 72-3059, Revision 4 dated September 15, 1985, or FAA approved equivalent.

(iii) Replace turbine-to-compressor-coupling P/N 6896895, or P/N 6889071, with P/N 23032345 and install two P/N AS 3085-018 O-rings on the aft end of the spur adapter gearshaft in accordance with Allison CEB-A-72-3135, Revision 1 dated September 15, 1985, or FAA approved equivalent.

(4) At the next turbine repair/overhaul shop visit, but not later than November 30, 1987, modify the turbine-exhaust-collector in accordance with Allison CEB 72-3096, Revision 1 dated September 15, 1985, or FAA approved equivalent.

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Chicago Aircraft Certification Office, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Chicago Aircraft Certification Office may adjust the compliance time specified in this AD.

The following Allison Commercial Engine Bulletins are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1):

CEB-A-72-3134, Revision 2 dated September 15, 1985
CEB-A-72-3135, Revision 1 dated September 15, 1985
CEB-72-3100, Revision 1 dated September 15, 1985
CEB-72-3059, Revision 4 dated September 15, 1985
CEB-A-72-3108, Revision 3 dated September 15, 1985
CEB-72-3096, Revision 1 dated September 15, 1985
CEB-A-72-3143 dated September 15, 1985

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Allison Gas Turbine Division, General Motors Corp., P.O. Box 420, Indianapolis, IN 46206-0420. These documents also may be examined at the Office of Regional Counsel, FAA, Attn: Rules Docket No. 84-ANE-29, 12 New England Executive Park, Burlington, Massachusetts 01803, weekdays, except Federal holidays, between 8:00 a.m. and 4:30 p.m. This amendment supersedes Amendment 39-4755, 48 FR 51287, AD 83-22-05.

This amendment becomes effective November 18, 1985, to all persons except those persons to whom it was made immediately effective by TAD T84-24-54, issued December 10, 1984, which contained this amendment.

Issued in Burlington, Massachusetts on October 21, 1985.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 85-26779 Filed 11-8-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 803

Antitrust Improvements Act Notification and Report Form for Certain Mergers and Acquisitions

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This final rule amends 16 CFR Part 803 Appendix by substituting a revised Antitrust Improvements Act Notification and Report Form for Certain Mergers and Acquisitions (the "Form"). This Form must be completed and submitted by persons required to report mergers or acquisitions pursuant to Section 7A of the Clayton Act, 15 U.S.C. 18(a), as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976 ("the Act"). The revised Form is virtually identical to the original Form adopted July 31, 1978, except for format, minor clarifications in the instructions and the item descriptions on the Form, and the expiration date as currently set by the Office of Management and Budget pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. (1985). The new Form, which requires no additional information, was approved by the Office of Management and Budget (OMB Control Number 3084-0005) on September 14, 1984, for use through September 30, 1985.

EFFECTIVE DATE: November 12, 1985.

ADDRESSES: All completed Forms including any documents required to be supplied in response to any item on the Form must be delivered to: Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, and Director of Operations, Antitrust Division, Room 3218, Department of Justice, Washington, DC 20530, as specified by 16 CFR 803.10(c)(1) (1985).

FOR FURTHER INFORMATION CONTACT: John M. Sipple, Jr., Senior Attorney, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580; Telephone: (202) 523-3894.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

The proposed amendment will not expand the coverage of the premerger

notification rules in a way that would affect small business. Therefore, pursuant to section 605(b) of the Administrative Procedure Act, 5 U.S.C. 605(b) (1985), as added by the Regulatory Flexibility Act, Pub. L. 96-354 (September 19, 1980), the Federal Trade Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities. Section 603 of the Administrative Procedure Act, 5 U.S.C. 603, requiring a final regulatory flexibility analysis of this amendment, is therefore inapplicable.

Background Information

The Hart-Scott-Rodino Antitrust Improvements Act of 1976 requires all persons contemplating certain mergers or acquisitions to file notification with the Federal Trade Commission ("the Commission") and the Antitrust Division of the Department of Justice and to wait designated periods of time before consummating such proposed transactions. Congress empowered the Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division, to require "that the notification . . . be in such form and contain such documentary material and information . . . as is necessary and appropriate" to enable the agencies "to determine whether such acquisitions may, if consummated, violate the antitrust laws." 15 U.S.C. 18a(d) (1985).

Pursuant to that section, the Commission, with the concurrence of the Assistant Attorney General, developed the Antitrust Improvements Act Notification and Report Form for Certain Mergers and Acquisitions. The Form is designed to provide the Commission and the Assistant Attorney General with the information and documentary material necessary and appropriate for an initial evaluation of the potential anticompetitive impact of significant mergers, acquisitions and certain similar transactions. The Form is not intended to elicit all potentially relevant information relating to an acquisition. Completion of the Form by all parties required to file will ordinarily permit both agencies to determine whether the waiting period should be allowed to expire or be terminated early upon request, or whether a request for additional information should be made under section 7A(e) of the Act and 16 CFR 803.20.

All acquiring and acquired persons required by the Act to file notification must complete the Form, or a photostatic or other equivalent reproduction, in accordance with the attached instructions and the premerger notification rules.

The Form was first promulgated on July 31, 1978, 43 FR 33552, and became effective on September 5, 1978. It was revised in 1980, 45 FR 14205 (March 5, 1980). Subsequently, new versions of the Form were approved by the Office of Management and Budget on December 29, 1981, February 23, 1983, and September 14, 1984.

The Commission believes that the notice and comment period ordinarily required by the Administrative Procedure Act ("the APA"), 5 U.S.C. 553(b) (1977), is unnecessary here. Section 553(b)(B) exempts from the notice and comment requirements of the APA, promulgation of a rule where the agency for good cause finds that the standard procedure would be "impracticable, unnecessary, or contrary to the public interest." Promulgation of the proposed amendment falls within this exemption.

The public was afforded the opportunity to comment on the original rules and Form in two notice and comment periods provided pursuant to the rulemaking requirements of the APA. The rulemaking culminated in the promulgation and publication of the premerger rules and Form, and was accompanied by a Statement of Basis and Purpose. 43 FR 33450 (July 31, 1978). Since the amendment does not alter the substance of the prior rulemaking (i.e., it does not change the type or amount of information required by the Form), further opportunity for comment seems unnecessary. The Commission therefore finds that a separate notice and comment period at this time would be unnecessary and therefore is not required by the APA.

List of Subjects in 16 CFR Part 803

Antitrust, Reporting and recordkeeping requirements.

The Commission, with the concurrence of the Assistant Attorney General, hereby revises the Appendix to 16 CFR Part 803.

PART 803—[AMENDED]

1. The authority for 16 CFR Part 803 continues to read:

Authority: Section 7A(d), Clayton Act, 15 U.S.C. 18a(d), as added by Sec. 201, Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. 94-435, 90 Stat. 1390.

2. The Appendix to Part 803 is revised to read as follows:

BILLING CODE 6750-01-M

ANTITRUST IMPROVEMENTS ACT
NOTIFICATION AND REPORT FORM
for Certain Mergers and Acquisitions

INSTRUCTIONS

GENERAL

The Answer Sheets (pp. 1-16) constitute the Notification and Report Form ("the Form") required to be submitted pursuant to § 803.1(a) of the premerger notification rules ("the rules"). Filing persons need not, however, record their responses on the Form.

These Instructions specify the information which must be provided in response to the Items on the Answer Sheets. *Only* the completed Answer Sheets, together with all documentary attachments are to be filed with the Federal Trade Commission and the Department of Justice.

The term "documentary attachments" refers to materials supplied in responses to Item 2(f)(i), Item 4 and to submissions pursuant to §§ 803.1(b) and 803.11 of the rules.

Information—The central office for information and assistance concerning the rules, 16 CFR Parts 801-803, and the Form is Room 301, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, phone (202) 523-3894.

Definitions—The definitions and other provisions governing this Form are set forth in the rules, 16 CFR Parts 801-803. The governing statute, the rules, and the Statement of Basis and Purpose for the rules are set forth at 43 FR 33450 (July 31, 1978), 44 FR 66781 (November 22, 1979) and 48 FR 34427 (July 29, 1983).

Affidavit—Attach the affidavit required by § 803.5 to page 1 of the Form. Affidavits are not required if the person filing notification is an acquired person in a transaction covered by § 801.30. (See § 801.5(a).)

Responses—*Each answer should identify the* **Item** *to which* it is addressed. Use the reverse side of the corresponding answer sheet or attach separate additional sheets as necessary in answering each Item. Each additional sheet should identify at the top of the page the Item to which it is addressed. Voluntary submissions pursuant to § 803.1(b) should also be so identified.

Enter the name of the person filing notification appearing in Item 1(a) on page 1 of the Form and the date on which the Form is completed at the top of each page of the Form, at the top of any sheets attached to complete the response to any Item, and at the top of the first or cover page of each documentary attachment.

If unable to answer any Item fully, give such information as is available and provide a statement of reasons for noncompliance as required by § 803.3. If exact answers to any Item cannot be given, enter best estimates and indicate the sources or bases of such estimates. Estimated data should be followed by the notation, "est." All information should be rounded to the nearest thousand dollars.

Year—All references to "year" refer to calendar year. If the data are not available on a calendar year basis, supply the requested data for the fiscal year reporting period which most nearly corresponds to the calendar year specified. References to "most recent year" mean the most recent calendar or fiscal year for which the requested information is available.

SIC Data—This Notification and Report Form requests information regarding dollar revenues and lines of commerce at three levels with respect to operations conducted within the United States. (See § 803.2(c)(1).) *All persons must submit certain data at the 4-digit (SIC code) industry level.* To the extent that dollar revenues are derived from *manufactured operations* (SIC major groups 20-39), data must also be submitted at the *5-digit product class and 7-digit product levels* (SIC codes).

The term "dollar revenues" is defined in § 803.2(d).

References— In reporting information by "*4-digit (SIC code) industry*" refer to the 1972 edition of the *Standard Industrial Classification Manual* and its 1977 supplement published by the Executive Office of the President, Office of Management and Budget.

In reporting information by "*5-digit (SIC code) product class*" and "*7-digit (SIC code) product*" refer to one or both of the following reference publications published by the U.S. Bureau of the Census:

(a) Numerical List of Manufactured Products, *1977 Census of Manufactures* (MC77-R-1)

(b) Volume II, "Industry Statistics," *1977 Census of Manufactures*.

In reporting information by "*5-digit (SIC code) product class*" refer, if necessary, to the code appearing in the "Product Class Reference List" shown in the *Instruction Manual for the Annual Survey of Manufactures*. In reporting information by "*7-digit (SIC code) product*," you may also refer to the applicable "Product Reference Lists" appearing in the *Instruction Manual* of the various *Current Industrial Reports* surveys (monthly, quarterly, or annually) conducted by the U.S. Bureau of the Census.

Note: Do not submit information for product codes ending in 00. Instead, submit information by product listed in Appendix B to the Numerical List of Manufactured Products listed above. Only if Appendix B does not contain a further breakdown for product codes ending in 00 may these codes be used.

Privacy Act Statement - Section 18a(a) of Title 15 of the U.S. Code authorizes the collection of this information. The primary use of this information is to determine whether the merger or acquisition reported in the Notification and Report Form may violate the antitrust laws. Furnishing the information on this Form is voluntary.

Consummation of an acquisition required to be reported by the statute cited above without having provided this information may, however, render a person liable to civil penalties up to $10,000 per day.

Items 5, 7, 8, 9 and the Insurance Appendix —Supply information only with respect to operations conducted within the United States, including its commonwealths, territories, possessions and the District of Columbia. (See §§ 801.1(k), 803.2(c)(1).)

Information need not be supplied regarding assets or voting securities currently being acquired, when the acquisition is exempt under the statute or rules. (See § 803.2(c)(2).)

Limited or separate responses may be required from the person filing notification (See § 803.2(b).)

Filing—Complete and return two notarized copies (with one set of documentary attachments) of this Notification and Report Form to the Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, and *three* notarized copies (with one set of documentary attachments) to Director of Operations, Antitrust Division, Department of Justice, Room 3218, 10th and Pennsylvania Avenue, N.W., Washington, D.C. 20530.

ITEM BY ITEM

Affidavit—Attach the affidavit required by § 803.5 to page 1 of the Answer Sheets. Acquiring persons in transactions covered by § 801.30 are required to also submit a copy of the notice served on the acquired person pursuant to § 803.5 (a)(1). (See § 803.5 (a)(3).)

Cash Tender Offer—Put an X in the appropriate box to indicate whether the acquisition is a cash tender offer.

Early Termination —Put an X in the yes box to request early termination of the waiting period. Notification of each grant of early termination will be published in the Federal Register as required by § 7A(b)(2) of the Clayton Act.

ITEM 1

Item 1(a)—Give the name and headquarters address of the person filing notification. The name of the person is the name of the ultimate parent entity included within that person.

Item 1(b) —Indicate whether the person filing notification is an acquiring person, an acquired person, or both an acquiring and acquired person. (See § 801.2.)

Item 1(c)—Give the names of all ultimate parent entities of acquiring and acquired persons which are parties to the acquisition whether or not they are required to file notification.

Item 1(d)—Put an X in all the boxes that apply to this acquisition.

Item 1(e)—Acquiring persons put an X in the box to indicate the highest threshold for which notification is being filed (see § 801.1 (h)): $15 million, 15%, 25%, or 50%.

Item 1(f)—All persons state the value of voting securities held as a result of the acquisition and/or the value of assets held as a result of the acquisition. (Insert responses to Item 3(c).)

Item 1(g)—Put an X in the appropriate box to indicate whether the entity in Item 1(a) is a corporation, partnership, or other (specify).

Item 1(h)—Put an X in the appropriate box to indicate whether data furnished is by calendar year or fiscal year. If fiscal year, specify period.

Item 1(i)—Put an X in the appropriate box to indicate if this Form is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file notification on its behalf pursuant to § 803.2(a), or if this Form is being filed pursuant to § 803.4 on behalf of a foreign person. Then provide the name and mailing address of the entity filing notification on behalf of the reporting person named in Item 1(a) on the Form.

Item 1(j)—If an entity within the person filing notification other than the ultimate parent entity listed in Item 1(a) is the entity which is making the acquisition, or if the assets or voting securities of an entity other than the ultimate parent entity listed in Item 1(a) are being acquired, provide the name and mailing address of that entity and the percentage of its voting securities held by the person named in Item 1(a) above. (If control is effected by means other than the direct holding of the entity's voting securities, describe the intermediaries or the contract through which control is effected (see § 801.1(b).)

ITEM 2

Item 2(a)—*Description of acquisition.* Briefly describe the transaction. Include a list of the name and mailing address of each acquiring and acquired person, whether or not required to file notification and a description of the assets or voting securities to be acquired by and/or the consideration to be received by each party. If voting securities are to be acquired from a holder other than the issuer (or an entity within the same person as the issuer) separately identify (if known) such holder and the issuer of the voting securities. Acquiring persons in tender offers should describe the terms of the offer.

Item 2(b)—State the scheduled consummation date of the transaction.

Item 2(c)—Describe the manner in which the transaction is to be carried out. The description should include the expected dates of any major events required in order to consummate the transaction (e.g., stockholders' meetings, filing of requests for approval, other public filings, terminations of tender offers).

Item 2(d)(i)—*Assets to be acquired.* This Item is to be completed only to the extent that the transaction is an acquisition of assets. Describe all general classes of assets (other than cash and securities) to be acquired by each party to the transaction giving approximate dollar values thereof. If the transaction is the formation of a joint venture or other corporation (see § 801.40), include assets to be acquired by the joint venture or other corporation.

Give the approximate total value or estimated total value of the assets to be acquired in this transaction.

Examples of general classes of assets other than cash and

securities are land, merchandising inventory, manufacturing plants (specify location and products produced), and retail stores. For each general class of assets, indicate the page or paragraph number of the contract or other document submitted with this Form in which the assets are more particularly described.

Item 2(d)(ii)—*Assets held by acquiring person.* (To be completed by acquiring persons.) If assets of the acquired person (see § 801.13) are presently held by the person filing notification, furnish a description of each general class of such assets in the manner required by Item 2(d)(i), and the dollar value or estimated dollar value at the time they were acquired.

Item 2(e)—*Voting securities to be acquired.* Furnish the following information separately for each issuer whose voting securities will be acquired in the acquisition:

Item 2(e)(i)—List each class of voting securities (including convertible voting securities) which will be outstanding after the acquisition has been completed. If there is more than one class of voting securities, include a description of the voting rights of each class. Also list each class of non-voting securities which will be acquired in the acquisition;

Item 2(e)(ii)—Total number of shares of each class of securities listed on page 3 which will be outstanding after the acquisition has been completed;

Item 2(e)(iii)—Total number of shares of each class of securities listed on page 3 which will be acquired in this acquisition. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

Item 2(e)(iv)—Identity of each person acquiring any securities of any class listed on page 3. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

Item 2(e)(v)—Dollar value of securities of each class listed on page 3 to be acquired in this transaction (see § 801.10). If there is more than one acquiring person of any class of securities, show data separately for each acquiring person; (If the exact dollar value cannot be determined at the time of filing, provide an estimated value and indicate the basis on which the estimate was made.)

Item 2(e)(vi)—Total number of each class of securities listed on page 3 which will be held by acquiring person(s) after the acquisition has been accomplished. If there is more than one acquiring person for any class of securities, show data separately for each acquiring person;

Item 2(e)(vii)—Percentage of each class of securities listed under 2(e)(vi) above which will be held by the acquiring person(s) after the acquisition has been completed (see § 801.12(b)). If there is more than one acquiring person for any class of security, show data separately for each acquiring person;

Item 2(e)(viii)—Dollar value (or estimated dollar value) of securities to be held as a result of the acquisition (see § 801.13).

Item 2(f)(i)—Furnish copies of final or most recent versions of all documents which constitute the agreement among the acquiring person(s) and the person(s) whose voting securities or assets are to be acquired. (Do not attach these documents to page 4 of the Answer Sheets.)

Item 2(f)(ii)—Index to ancillary documents. Furnish an index containing a brief description sufficient to identify each ancillary document or class of documents related to this agreement, such as those relating to personnel matters (e.g., union contracts, employment agreements), third-party financing agreements, leases, subleases and other documents relating to the transfer of realty, or other similar documents related to this transaction.

ITEM 3

Assets and voting securities held as a result of the acquisition (to be completed by both acquiring and acquired persons). State:
Item 3(a)- the percentage of the assets;
Item 3(b)- the percentage of the voting securities;
Item 3(c)- the aggregate total dollar amount of voting securities and assets of the acquired person to be held by each acquiring person, as a result of the acquisition (see §§ 801.12, 801.13, and 801.14).

ITEM 4

Furnish one copy of each of the following documents. For each entity included within the person filing notification which has prepared its own such documents different from those prepared by the person filing notification, furnish, in addition, one copy of each document from each such other entity. Furnish copies of:

Item 4(a)—all of the following documents which have been filed with the United States Securities and Exchange Commission (or are to be filed contemporaneously in connection with this acquisition): the most recent proxy statement and Form 10-K, each dated not more than three years prior to the date of this Notification and Report Form; all Forms 10-Q and 8-K filed since the end of the period reflected by the Form 10-K being supplied; any registration statement filed in connection with the transaction for which notification is being filed; if the acquisition is a tender offer, Schedule 14D-1. Alternatively, if the person filing notification does not have copies of responsive documents readily available, identification of such documents and citation to date and place of filing will constitute compliance;

NOTE: In response to Item 4(a), the person filing notification may incorporate by reference documents submitted with an earlier filing as explained in the staff formal interpretations dated April 10, 1979, and April 7, 1981, and in § 803.2(e).

Item 4(b)—the most recent annual reports and most recent annual audit reports (of person filing notification and of each unconsolidated United States issuer included within such person) and, if different, the most recent regularly prepared balance sheet of the person filing notification and of each unconsolidated United States issuer included within such person;

Item 4(c)—all studies, surveys, analyses and reports which were prepared by or for any officer(s) or director(s) (or, in the case of unincorporated entities, individuals exercising similar functions) for the purpose of evaluating or analyzing the acquisition with respect to market shares, competition, competitors, markets, potential for sales growth or expansion into product or geographic markets, and indicate (if not contained in the document itself) the date of preparation, the name and title of each individual who prepared each such document.

Persons filing notification may provide an optional index of documents called for by Item 4 on page 5 of the Answer Sheets.

NOTE: If the person filing notification withholds any documents called for by Item 4(c) based on a claim of privilege, the person must provide a statement of reasons for such noncompliance as specified in the staff formal interpretation dated September 13, 1979, and § 803.3(d).

* * * *

ITEMS 5 through 9 and the Appendix

NOTE: *For Items 5 through 9 and the* **Appendix** *limited or separate responses may be required of the person filing notification. (See § 803.2(b) and (c).)*

ITEM 5

ITEM 5(a) — 5(c): These Items request information regarding dollar revenues and lines of commerce at three levels with respect to operations conducted within the United States. (See § 803.2(c)(1).) All persons must submit certain data at the 4-digit (SIC code) industry level. To the extent that dollar revenues are derived from manufacturing operations (SIC major groups 20-39), data must also be submitted at the 5-digit *product class* and 7-digit *product levels* (SIC codes). (See General Instructions to the Form). Insurance carriers (2-digit SIC major group 63) should supply the information requested only with respect to industries not within 2-digit major group 63. Credit agencies other than banks; security and commodity brokers, dealers, exchanges, and services; holding and other investment offices, and real estate companies (2-digit SIC major groups 61, 62, 67 and 65) should identify or explain the revenues reported (e.g., dollar sales, receipts).

Persons filing notification should include the total dollar revenues for 1977 derived by all entities included within the person filing notification at the time this Notification and Report Form is prepared (even if such entities have become included within the person since 1977). For example, if the person filing notification acquired an entity in 1980, it must include that entity's 1977 revenues in Items 5(a) and 5(b)(i).

Item 5(a)—*Dollar revenues by industry.* Provide aggregate 4-digit (SIC code) industry data for 1977.

Item 5(b)(i)—*Dollar revenues by manufactured product.* Provide the following information on the aggregate operations of the person filing notification for 1977 for each 7-digit (SIC code) product of the person in 2-digit SIC major groups 20-39 (manufacturing industries).

Do not provide 7-digit data for product codes ending in 00. Instead, submit information by product listed in Appendix B to the *Numerical List of Manufactured Products*. Only if Appendix B does not contain a further breakdown for product codes ending in 00 may these codes be used.

Item 5(b)(ii)—*Products added or deleted.* Within 2-digit SIC major groups 20-39 (manufacturing industries), identify each product of the person filing notification added or deleted subsequent to 1977, indicate the year of addition or deletion, and state total dollar revenues in the most recent year for each product that has been added. Products may be identified either by 7-digit SIC code or in the manner ordinarily used by the person filing notification.

Do not include products added since 1977 by reason of mergers or acquisitions occurring since 1977. Dollar revenues derived from such products such be included in response to Item 5(b)(i). However, if an entity acquired since 1977 by the person filing notification (and now included within the person) itself has added any products since 1977, these products and the dollar revenues derived therefrom should be listed here. Products deleted by reason of dispositions of assets or voting securities since 1977 should also be listed here.

Item 5(b)(iii)—*Dollar revenues by manufactured product class.* Provide the following information about the aggregate operations of the person filing notification for the most recent year for each 5-digit (SIC code) product class of the person within SIC major groups 20-39 (manufacturing industries). If such data have not been compiled for the most recent year, estimates of dollar revenues by 5-digit product class may be provided if a statement describing the method of estimation is furnished.

Item 5(c)—*Dollar revenues by non-manufacturing industry.* Provide the following information concerning the aggregate operations of the person filing notification for the most recent year for each 4-digit (SIC code) industry in SIC major groups other than 20-39 in which the person engaged. If such data have not been compiled for the most recent year, estimates of dollar revenues by 4-digit industry may be provided if a statement describing the method of estimation is furnished. Industries for which the dollar revenues totaled less than one million dollars in the most recent year may be omitted.

NOTE: *This million dollar minimum is applicable only to Item 5(c).*

Insurance carriers (2-digit SIC major group 63) should supply the information requested only with respect to industries not within SIC major group 63, and, if voting securities of an insurance carrier are being acquired directly or indirectly should complete the Insurance Appendix to this Form.

JOINT VENTURE OR OTHER CORPORATIONS

Item 5(d)—Supply the following information only if the acquisition is the formation of a joint venture or other corporation. (See § 801.40.)

Item 5(d)(i)—List the name and mailing address of the joint venture or other corporation.

Item 5(d)(ii)(A)—List contributions that each person forming the joint venture or other corporation has agreed to make, specifying when each contribution is to be made and the value of the contribution as agreed by the contributors.

Item 5(d)(ii)(B)—Describe any contracts or agreements whereby the joint venture or other corporation will obtain assets or capital from sources other than the persons forming it.

Item 5(d)(ii)(C)—Specify whether and in what amount the persons forming the joint venture or other corporation have agreed to guarantee its credit or obligations.

Item 5(d)(ii)(D)—Describe fully the consideration which each person forming the joint venture or other corporation will receive in exchange for its contribution(s).

Item 5(d)(iii)—Describe generally the business in which the joint venture or other corporation will engage, including location of headquarters and principal plants, warehouses, retail establishments or other places of business, its principal types of products or activities, and the geographic areas in which it will do business.

Item 5(d)(iv)—Identify each 4-digit (SIC code) industry in which the joint venture or other corporation will derive dollar revenues. If the joint venture or other corporation will be engaged in manufacturing, also specify each 5-digit (SIC code) product class in which it will derive dollar revenues.

ITEM 6

This Item need not be completed by a person filing notification only as an acquired person if only assets are to be acquired.

Item 6(a)—*Entities within person filing notification.* List the name and headquarters mailing address of each entity included within the person filing notification. Entities with total assets of less than $1 million may be omitted.

Item 6(b)—*Shareholders of person filing notification.* For each entity (including the ultimate parent entity) included within the person filing notification the voting securities of which are held (see § 801.1(c)) by one or more other persons, list the issuer and class of voting securities, the name and headquarters mailing address of each other person which holds five percent or more of the outstanding voting securities of the class, and the number and percentage held by that person. Holders need not be listed for entities with total assets of less than $10 million.

Item 6(c)—*Holdings of person filing notification.* If the person filing notification holds voting securities of any issuer not included within the person filing notification, list the issuer and class, the number and percentage held, and (optionally) the entity within the person filing notification which holds the securities. Holdings of less than five percent of the outstanding voting securities of any issuers, and holdings of issuers with total assets of less than $10 million, may be omitted.

ITEM 7

If, to the knowledge or belief of the person filing notification, the person filing notification derived dollar revenues in the most recent year from operations in any 4-digit (SIC code) industries in which any other person which is a party to the acquisition also derived dollar revenues in the most recent year (or in which a joint venture of other corporation will derive dollar revenues), then for each such 4-digit (SIC code) industry:

Item 7(a)—supply the 4-digit SIC code and description for the industry;

Item 7(b)—list the name of each person which is a party to the acquisition which also derived dollar revenues in the 4-digit industry;

Item 7(c)—*Geographic market information*:

Item 7(c)(i)—for each 4-digit industry within SIC major groups 20-39 (manufacturing industries) listed in Item 7(a) above, list the states (or, if desired, portions thereof) in which, to the knowledge or belief of the person filing notification, the products in that 4-digit industry produced by the person filing notification are sold without a significant change in their form, whether they are sold by the person filing notification or by others to whom such products have been sold or resold;

Item 7(c)(ii)—for each 4-digit industry within SIC major groups 01-17 and 40-49 (agriculture, forestry and fishing, mining, construction, transportation, communications, electric, gas and sanitary services) listed in Item 7(a) above, list the states (or, if desired, portions thereof) in which the person filing notification conducts such operations;

Item 7(c)(iii)—for each 4-digit industry within SIC major groups 50-51 (wholesale trade) listed in Item 7(a) above, list the states, (or, if desired, portions thereof) in which the customers of the person filing notification are located;

Item 7(c)(iv)—for each 4-digit industry within SIC major groups 52-62 and 64-89 (retail trade, finance, insurance other than insurance carriers, and real estate, and services) listed in Item 7(a) above, provide the address, arranged by state, county and city or town, of each establishment from which dollar revenues were derived in the most recent year by the person filing notification; and

Item 7(c)(v)—for each 4-digit industry within SIC 63 (insurance) listed in Item 7(a) above, list the state(s) in which the person filing notification is licensed to write insurance.

NOTE: Except in the case of those SIC major industry groups mentioned in Item 7(c)(iv) above, the person filing notification may respond with the word "national" if business is conducted in all 50 states.

ITEM 8

Item 8—Put an X in the appropriate box to indicate if the acquired person and an acquiring person maintained a vendor-vendee relationship during the most recent year with respect to any manufactured product (or, if the acquisition is the formation of a joint venture or other corporation (see § 801.40), if the joint venture or other corporation will supply to any of the persons forming it any manufactured

V

product which such person purchased from another such person during the most recent year) which the vendee either resells or consumes in or incorporates into the manufacture of any product. Persons filing notification which are vendees of such product(s) should list each product purchased, identify each vendor which is a party to the acquisition from which the product was purchased and state the dollar amount of the product purchased from that vendor during the most recent year.

Manufactured products are those within 2-digit SIC major groups 20-39. Any product purchased from the vendor in an aggregate annual amount not exceeding $1 million, or the manufacture, consumption or use of which is not attributable to the assets to be acquired, or to the issuer whose voting securities are to be acquired (including entities controlled by the issuer), may be omitted.

ITEM 9

Item 9—*Previous acquisitions* (to be completed by acquiring persons)—Determine each 4-digit (SIC code) industry listed in Item 7(a) above, in which the person filing notification derived dollar revenues of $1 million or more in the most recent year and in which either the acquired issuer derived revenues of $1 million or more in the most recent year, (or in which, in the case of the formation of a joint venture or other corporation, the joint venture or other corporation reasonably can be expected to derive dollar revenues of $1 million or more), or revenues of $1 million or more in the most recent year were attributable to the acquired assets.

For each such 4-digit industry, list all acquisitions made by the person filing notification in the ten years prior to the date of filing of entities deriving dollar revenues in that 4-digit industry. List only acquisitions of more than 50 percent of the voting securities or assets of entities which had annual net sales or total assets greater than $10 million in the year prior to the acquisition.

For each such acquisition, supply:
(a) the name of the entity acquired;
(b) the headquarters address of the entity prior to the acquisition;
(c) whether securities or assets were acquired;
(d) the consummation date of the acquisition;
(e) the annual net sales of the acquired entity for the year prior to the acquisition;
(f) the total assets of the acquired entity in the year prior to the acquisition; and
(g) the 4-digit (SIC code) industries (by number and description) identified above in which the acquired entity derived dollar revenues.

ITEM 10

Item 10(a)—Print or type the name and title, firm name, address, and telephone number of the individual to contact regarding this Notification and Report Form. (See § 803.20(b)(2)(ii).)

Item 10(b)—Foreign filing persons print or type the name and title, firm name, address, and telephone number of an individual located in the United States designated for the limited purpose or receiving notice of the issuance of a request for additional information or documentary material. (See § 803.20(b)(2)(iii).)

Certification—(See § 803.6.)

APPENDIX TO NOTIFICATION AND REPORT FORM: INSURANCE

Insurance carriers (2-digit SIC major group 63) are required to complete this Appendix if voting securities of an insurance carrier are being acquired directly or indirectly.

ITEM 1

Item 1(A)—*Life Insurance.* Provide for the most recent year the amount of premium receipts (calulated on the accrual basis) for each of the lines of insurance listed on page 16 of the Answer Sheets.

Item (B)—*New Business.* Provide for the most recent year the amount of new life insurance business issued in the United States (exclusive of revivals, increases, dividend additions and reinsurance ceded) for each of the lines of insurance listed on page 16 of the Answer Sheets.

ITEM 2

Item 2(A)—*Property Liability Insurance.* Provide for the most recent year the amount of direct premiums written in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your carrier's annual convention statement.

Item 2(B)—Provide for the most recent year the amount of net premiums written in the United States for each line of insurance specified in Part 2 of the Underwriting and Investment Exhibit of your carrier's annual convention statement.

ITEM 3

Item 3(A)—*Title Insurance.* Provide for the most recent year the amount of net direct title insurance premiums written in the United States.

Item 3(B)—Provide for the most recent year the amount of direct title insurance premiums earned in the United States.

VI

16 C.F.R. Part 801[1] - Appendix

Approved by OMB 3084-0005 Expires 8-30-88

NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

THE INFORMATION REQUIRED TO BE SUPPLIED ON THESE ANSWER SHEETS IS SPECIFIED IN THE INSTRUCTIONS

FOR OFFICE USE ONLY
TRANSACTION NUMBER
☐ CTO ☐ ETR

➡ Attach the Affidavit required by § 803.5 to this page.

Is this Acquisition a CASH TENDER OFFER? ☐ YES ☐ NO

Do you request Early Termination of the Waiting Period? ☐ YES ☐ NO
(Grants of early termination are published in the Federal Register.)

ITEM 1

(a) NAME AND HEADQUARTERS ADDRESS OF PERSON FILING NOTIFICATION (ultimate parent entity)

(b) PERSON FILING NOTIFICATION IS
☐ an acquiring person ☐ an acquired person ☐ both

(c) LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRING PERSONS | LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRED PERSONS

(d) THIS ACQUISITION IS (put an X in all the boxes that apply)
☐ an acquisition of assets
☐ a merger (see § 801.2)
☐ an acquisition subject to § 801.2(e)
☐ formation of a joint venture or other corporation (see § 801.40)
☐ an acquisition subject to § 801.30 (specify type): ______
☐ other (specify) ______
☐ a consolidation (see § 801.2)
☐ an acquisition of voting securities
☐ a secondary acquisition
☐ an acquisition subject to § 801.21

(e) INDICATE HIGHEST NOTIFICATION THRESHOLD IN § 801.1(h) FOR WHICH THIS FORM IS BEING FILED (acquiring person only)
☐ $ 15 million ☐ 15% ☐ 25% ☐ 50%

(f) VALUE OF VOTING SECURITIES | VALUE OF ASSETS

(g) PUT AN X IN THE APPROPRIATE BOX TO DESCRIBE ENTITY FILING NOTIFICATION
☐ corporation ☐ partnership ☐ other (specify) ______

(h) DATA FURNISHED BY
☐ calendar year ☐ fiscal year (specify period) ______ (mo/mo/yr) TO ______ (mo/mo/yr)

(i) PUT AN X IN THE APPROPRIATE BOX AND GIVE THE NAME AND ADDRESS OF THE ENTITY FILING NOTIFICATION (if other than ultimate parent entity)
☐ NA ☐ This report is being filed on behalf of a foreign person pursuant to § 803.4. ☐ This report is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file pursuant to § 803.2(a).

NAME OF ENTITY FILING NOTIFICATION | ADDRESS

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person which, by reason of a merger, consolidation or acquisition, is subject to § 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1390, and rules promulgated thereunder (hereinafter referred to as "the rules" or by section number). The statute and rules are set forth in the Federal Register at 43 FR 33450; the rules may also be found at 16 CFR Parts 801-03. Failure to file this Notification and Report Form, and to observe the required waiting period before consummating the acquisition, in accordance with the applicable provisions of 15 U.S.C. § 18a and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than $10,000 for each day during which such person is in violation of 15 U.S.C. § 18a.

All information and documentary material filed in or with this Form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

Complete and return two notarized copies (with one set of documentary attachments) of this Notification and Report Form to Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580, and three notarized copies (with one set of documentary attachments) to Director of Operations, Antitrust Division, Room 3218, Department of Justice, Washington, D.C. 20530. The central office for information and assistance with respect to matters in connection with this Notification and Report Form is Room 301, Federal Trade Commission, Washington, D.C. 20580, phone (202) 523-3894.

FTC Form C 4 (rev. 10/85)

1

NAME OF PERSON FILING NOTIFICATION | DATE

(j) NAME AND ADDRESS OF ENTITY MAKING ACQUISITION OR WHOSE ASSETS OR VOTING SECURITIES ARE BEING ACQUIRED IF DIFFERENT FROM THE ULTIMATE PARENT ENTITY IDENTIFIED IN ITEM 1(a)

PERCENT OF VOTING SECURITIES HELD BY ENTITY IDENTIFIED IN ITEM 1(j)

ITEM 2

2(a) DESCRIPTION OF ACQUISITION

(b) SCHEDULED DATE OF CONSUMMATION

(c) MANNER IN WHICH THE ACQUISITION IS TO BE CARRIED OUT

2

NAME OF PERSON FILING NOTIFICATION	DATE

2(a)(i) ASSETS TO BE ACQUIRED *(to be completed only for assets acquisitions)*

(ii) ASSETS HELD BY ACQUIRING PERSON

(b) VOTING SECURITIES TO BE ACQUIRED

(i) LIST AND DESCRIPTION OF VOTING SECURITIES AND LIST OF NON—VOTING SECURITIES

(ii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY

(iii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY BEING ACQUIRED

Item 2(a) continued on page 4

NAME OF PERSON FILING NOTIFICATION	DATE

(iv) IDENTITY OF PERSONS ACQUIRING SECURITIES

(v) DOLLAR VALUE OF SECURITIES IN EACH CLASS BEING ACQUIRED

(vi) TOTAL NUMBER OF EACH CLASS OF SECURITIES HELD BY ACQUIRING PERSON AS A RESULT OF THE ACQUISITION

(vii) PERCENTAGE OF EACH CLASS OF SECURITIES HELD BY ACQUIRING PERSON AS A RESULT OF THE ACQUISITION

(viii) DOLLAR VALUE OF SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION

(c) SUBMIT A COPY OR MOST RECENT VERSION OF CONTRACT OR AGREEMENT *or letter of intent to merge or acquire.*

DO NOT ATTACH THIS DOCUMENT TO THIS PAGE. ATTACHMENT OR REFERENCE NUMBER OF CONTRACT OR AGREEMENT ______

(d) INCLUDE AN INDEX OF ANCILLARY DOCUMENTS

NAME OF PERSON FILING NOTIFICATION | DATE

ITEM 3

ASSETS AND VOTING SECURITIES HELD AS A RESULT OF THE ACQUISITION

(a) PERCENTAGE OF ASSETS _______

(b) PERCENTAGE OF VOTING SECURITIES _______

(c) AGGREGATE TOTAL VALUE _______

ITEM 4 PERSONS FILING NOTIFICATION MAY PROVIDE BELOW AN OPTIONAL INDEX OF DOCUMENTS REQUIRED TO BE SUBMITTED BY ITEM 4 (SEE ITEM BY ITEM INSTRUCTIONS). THESE DOCUMENTS SHOULD NOT BE ATTACHED TO THIS PAGE.

(a) DOCUMENTS FILED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION — ATTACHMENT OR REFERENCE NUMBER

(b) ANNUAL REPORTS, ANNUAL AUDIT REPORTS, AND REGULARLY PREPARED BALANCE SHEETS — ATTACHMENT OR REFERENCE NUMBER

(c) STUDIES, SURVEYS, ANALYSES, AND REPORTS — ATTACHMENT OR REFERENCE NUMBER

5

NAME OF PERSON FILING NOTIFICATION | DATE

ITEM 5

5(a) DOLLAR REVENUES BY INDUSTRY

4-DIGIT INDUSTRY CODE	DESCRIPTION	1977 TOTAL DOLLAR REVENUES

6

NAME OF PERSON FILING NOTIFICATION

DATE

98(b) DOLLAR REVENUES BY MANUFACTURED PRODUCTS

7-DIGIT PRODUCT CODE	DESCRIPTION	1977 TOTAL DOLLAR REVENUES

7

NAME OF PERSON FILING NOTIFICATION

DATE

98(e) PRODUCTS ADDED OR DELETED

DESCRIPTION (7-DIGIT PRODUCT CODE)	ADD	DELETE	YEAR OF CHANGE	TOTAL DOLLAR REVENUES

98(f) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS

5-DIGIT PRODUCT CLASS CODE	DESCRIPTION	YEAR ____ TOTAL DOLLAR REVENUES

8

NAME OF PERSON FILING NOTIFICATION		DATE

[illegible] DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS / CONTINUED

5-DIGIT PRODUCT CLASS CODE	DESCRIPTION	YEAR / TOTAL DOLLAR REVENUES

[illegible] DOLLAR REVENUES BY NON-MANUFACTURING INDUSTRY

4-DIGIT INDUSTRY CODE	DESCRIPTION	YEAR / TOTAL DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION	DATE

[illegible] COMPLETE ONLY IF ACQUISITION IS THE FORMATION OF A JOINT VENTURE OR OTHER CORPORATION

[illegible] NAME AND ADDRESS OF THE JOINT VENTURE OR OTHER CORPORATION

[illegible]

(A) CONTRIBUTIONS THAT EACH PERSON FORMING THE JOINT VENTURE OR OTHER CORPORATION HAS AGREED TO MAKE

(B) DESCRIPTION OF ANY CONTRACTS OR AGREEMENTS

(C) DESCRIPTION OF ANY CREDIT GUARANTEES OR OBLIGATIONS

(D) DESCRIPTION OF CONSIDERATION WHICH EACH PERSON FORMING THE JOINT VENTURE OR OTHER CORPORATION WILL RECEIVE

[illegible] DESCRIPTION OF THE BUSINESS IN WHICH THE JOINT VENTURE OR OTHER CORPORATION WILL ENGAGE

[illegible] SOURCE OF DOLLAR REVENUES BY 4-DIGIT SIC CODE

NAME OF PERSON FILING NOTIFICATION | DATE

ITEM 6

6(a) ENTITIES WITHIN PERSON FILING NOTIFICATION

6(b) SHAREHOLDERS OF PERSON FILING NOTIFICATION

NAME OF PERSON FILING NOTIFICATION | DATE

6(c) HOLDINGS OF PERSON FILING NOTIFICATION

ITEM 7 DOLLAR REVENUES

7(a) 4-DIGIT SIC CODE AND DESCRIPTION

7(b) NAME OF EACH PERSON WHICH ALSO DERIVED DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION | DATE

7(e) GEOGRAPHIC MARKET INFORMATION

NAME OF PERSON FILING NOTIFICATION | DATE

ITEM 8 VENDOR-VENDEE RELATIONSHIP

☐ NO ☐ YES (if yes and you are the vendee, complete the following)

PRODUCT PURCHASES	VENDOR	DOLLAR AMOUNT

ITEM 9 PRIOR ACQUISITIONS (to be completed by acquiring person only)

NAME OF PERSON FILING NOTIFICATION | [illegible]

ITEM 10 IDENTIFICATION OF PERSON TO CONTACT REGARDING THIS REPORT

10(a) NAME OF CONTACT PERSON	TITLE OF CONTACT PERSON
FIRM NAME AND BUSINESS ADDRESS	BUSINESS TELEPHONE NUMBER

10(b) IDENTIFICATION OF AN INDIVIDUAL LOCATED IN THE UNITED STATES DESIGNATED FOR THE LIMITED PURPOSE OF RECEIVING NOTICE OF ISSUANCE OF A REQUEST FOR ADDITIONAL INFORMATION OR DOCUMENTS. (See § [illegible])

NAME	TITLE
ADDRESS	BUSINESS TELEPHONE NUMBER

CERTIFICATION

This **NOTIFICATION AND REPORT FORM**, together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Federal Trade Commission. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

NAME (Please print or type)	TITLE
SIGNATURE	DATE

Subscribed and sworn to before me at the

City of ____________ State of ____________

this ____________ day of ____________, 19____

Signature ____________

My Commission expires ____________

(SEAL)

15

NAME OF PERSON FILING NOTIFICATION | DATE

APPENDIX: INSURANCE

ITEM 1

A PREMIUM RECEIPTS — YEAR / AMOUNT

1 LIFE INSURANCE

1a. ORDINARY LIFE INSURANCE

1b. GROUP LIFE INSURANCE (including Federal Employees' Group Life Insurance and Servicemen's Group Life Insurance, but excluding credit life insurance)

1c. INDUSTRIAL LIFE INSURANCE

1d. CREDIT LIFE INSURANCE

2 ANNUITY CONSIDERATIONS

2a. INDIVIDUAL ANNUITY CONSIDERATIONS

2b. GROUP ANNUITY CONSIDERATIONS

3 HEALTH INSURANCE

3a. INDIVIDUAL HEALTH INSURANCE

3b. GROUP HEALTH INSURANCE

TOTAL

B NEW BUSINESS — YEAR / AMOUNT

1 ORDINARY LIFE INSURANCE

2 GROUP LIFE INSURANCE

3 INDUSTRIAL LIFE INSURANCE

4 CREDIT LIFE INSURANCE

TOTAL

ITEM 2 PROPERTY LIABILITY INSURANCE — YEAR

LINE OF INSURANCE	A. DIRECT PREMIUMS	B. NET PREMIUMS

ITEM 3 TITLE INSURANCE — YEAR

A. NET DIRECT PREMIUMS WRITTEN	B. DIRECT PREMIUMS EARNED

16

By Direction of the Commission.
Emily H. Rock,
Secretary.
[FR Doc. 85-26738 Filed 11-8-85; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1020

[Docket No. 82N-0274]

Retrospective Review of the Performance Standard for Diagnostic X-Ray Equipment; Availability of Report

AGENCY: Food and Drug Administration.

ACTION: Notice; final rule-related.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a report prepared by the X-Ray Standard Review Group (XSRG) in FDA's Center for Devices and Radiological Health (CDRH). The report contains the review group's assessment of the performance standard for diagnostic x-ray systems and their major components. It contains recommendations for changes in the standard with respect to the need to ensure that regulatory controls keep pace with developing technology and the needs of the radiological community. In addition, FDA is inviting interested persons to submit written comments, data, or information regarding the report for the agency's consideration in deciding whether to initiate any changes in the performance standard.

DATE: Comments, data, and information by February 10, 1985.

ADDRESSES: Comments, data, and information to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Single copies of the report may be obtained by submitting a written request to the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Harvey Rudolph, Center for Devices and Radiological Health (HFZ-83), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: In March 1982, CDRH formed the XSRG to conduct a retrospective review of the performance standard for diagnostic x-ray systems and their major components (21 CFR 1020.30-1020.32). The agency selected this performance standard as a high-priority rule under its program to identify regulations that impose significant cost burdens and to explore alternative measures for protecting the public health (see 47 FR 29004; July 2, 1982). The goal of the XSRG was to (1) assess the costs and public health impacts of the performance standard, (2) develop a cohesive set of recommendations for both regulatory and nonregulatory radiation control programs for consideration by CDRH, and (3) identify any changes that could be made in the requirements of the performance standard that would lessen the regulatory burden on manufacturers of diagnostic x-ray systems and their major components, yet maintain an optimum level of public health protection.

In the **Federal Register** of November 16, 1982 (47 FR 51710), FDA announced that it intended to review the standard and invited interested persons to submit comments, data, and qualitative information concerning the economic cost or other impacts that may be attributed to the standard. The agency set forth for consideration alternative means for ensuring the radiation safety of diagnostic x-ray systems along with an invitation to the public for additional suggestions. The announcement also encouraged interested persons to provide comments on significant public health benefits and to identify any other benefits directly attributable to the standard. Announcement of the review was advertised in more than 20 trade publications and professional newsletters. Thirty-eight individuals and groups responded to the notice. In addition to the comments, more than 200 individuals and groups requested materials and reports that might be generated in the retrospective review.

The XSRG analyzed all of the available data and information and prepared a draft report entitled "An Overview of the Costs and Benefits of the Diagnostic X-Ray Equipment Performance Standard (21 CFR 1020.30-31)." The draft report provided estimates of the impact of the standard on the performance and the cost of diagnostic x-ray systems. Also, the draft report included information and views from interested persons and data from FDA's compliance test program and Nationwide Evaluation of X-ray Trends surveys. It also included the results of the "delphi" committee assessment of the public health values of the requirements in the standard. In the **Federal Register** of January 24, 1984 (49 FR 2918), FDA announced the availability of the draft report for review and comment. Ten comment letters were received and incorporated into the final version of the report, which was sent to approximately 350 individuals and organizations that had requested copies.

The XSRG has now completed its review and analysis of the impact of the performance standard and has prepared a final report which outlines the review group's specific recommendations for modifications to the standard. This report is the product of the XSRG's deliberations over the past 3 years. The recommendations contained in the report are those of the XSRG as formulated from comments by various sections of the radiological community and CDRH staff. The recommendations do not represent FDA or CDRH policy in regard to enforcement of the performance standard for diagnostic x-ray systems and their major components. This policy will be developed after review of comments in the report and the development of any proposed changes in the standard that the agency decides are warranted.

The report is on file in the Dockets Management Branch (address above) under the docket number found in brackets in the heading of this notice and is available for public review between 9 a.m. and 4 p.m., Monday through Friday. Single copies of the report may be obtained by submitting a written request to the contact person for this notice. Interested persons are invited to review the report and to submit written comments on it. Such comments should be supported by an appropriated rationale and background data where possible. Individuals and organizations who have responded to the notices of November 16, 1982, or January 24, 1984, will automatically receive copies of the XSRG final report, and, in addition to those responding to this notice, will be placed on a mailing list to receive copies of any future proposals to amend the standard.

Interested persons may, on or before February 10, 1986, submit to the Dockets Management Branch (address above) written comments, data, or information regarding the report. Two copies of any comments should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this notice. FDA will consider all comments received in response to this notice in inititating any significant regulatory actions respecting the performance standard for diagnostic x-ray systems. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 4, 1985.
Mervin H. Shumate,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 85-26832 Filed 11-8-85; 8:45 am]
BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 47

[T.D. ATF-215]

Importation of Articles on the United States Munitions Import List

Correction

In FR Doc. 85-24719, beginning on page 42157 in the issue of Friday, October 18, 1985, make the following corrections:

1. On page 42158, third column, amendatory instruction "Par. 7" should read "Par. 5".

2. On page 42159, third column, § 47.21, *Category VI*, in the eighth line preceding *Category VII*, "(2) Partol Craft" should read "(2) Patrol Craft".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-85-15]

Drawbridge Operation Regulations; Pearl River, Louisiana/Mississippi

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Seaboard System Railroad (SSR) and the Louisiana Department of Transportation and Development (LDOTD), the Coast Guard is changing the regulations governing the operations of the following swing span bridges over the Pearl River.

a. The railroad bridge, mile 1.0, between English Lookout, St. Tammany Parish, Louisiana, and Ansley, Hancock County, Mississippi.

b. The US Highway 90 bridge, mile 8.8, between St. Tammany Parish, Louisiana, and Pearlington, Hancock County, Mississippi.

This change requires that the draws of the bridges open at least four hours advance notice from 9 p.m. to 5 a.m. The draws will open on signal from 5 a.m. to 9 p.m. Presently, the draws are required to open on signal at all times.

This change is being made because of the infrequent requests for opening the draws during the advance notice period. This action will relieve the bridge owners of the burden of having persons constantly available at the bridges between 9 p.m. and 5 a.m., and will still provide for the reasonable needs of navigation.

EFFECTIVE DATE: This regulation becomes effective on December 12, 1985.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: On 26 August 1985, the Coast Guard published a proposed rule (50 FR 34497) concerning this amendment. The Commander, Eighth Coast Guard District, also published the proposal as a public notice dated 3 September 1985. In each notice interested persons were given until 10 October 1985 to submit comments.

Drafting Information

The drafters of this regulation are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

Discussion of Comments

Two comments were received in response to the notices. One was a letter of no objection and the other a request that the highway bridge be opened on less than four hours notice for emergencies between 9 p.m. and 5 a.m. The regulation in both the proposed rule (50 FR 34497) and this final rule requires the draw of each bridge to open in less than four hours for an emergency during the 9 p.m. to 5 a.m. advance notice period.

Economic Assessment and Certification

This regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels pass the bridges during the advance notice period of 9 p.m. to 5 a.m., as evidenced by the 1984 log of bridge openings which show that during this period the railroad bridge averaged one opening every six days and the highway bridge averaged one opening every four days. The advance notice for opening the railroad bridge will be given by placing a collect call at any time to the Chief Dispatcher's office in Mobile, Alabama, telephone (205) 432-0725. The advance notice for opening the highway bridge will be given by placing a collect call at any time to the LDOTD District Office in Hammond, Louisiana, telephone (504) 345-7390. To provide for leeway in the appointed arrival times, the SSR and LDOTD will have tenders at the bridges at least one-half hour before the appointed time who will remain at least one-half hour after that time for a late arriving vessel. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46(c)(5) and 33 CFR 1.05-1(g).

2. Sections 117.488 and 117.684 are added to read as follows:

§ 117.488 Pearl River.

The draws of the Seaboard System Railroad bridge, mile 1.0 near English Lookout, and the US 90 Highway bridge, mile 8.8 near Pearlington, shall open on signal; except that, from 9 p.m. to 5 a.m. the draws shall open on signal if at least four hours notice is given. During the advance notice period, the draws shall open on less than four hours notice for an emergency and shall open on signal should a temporary surge in waterway traffic occur.

§ 117.684 Pearl River.

The draws of the Seaboard System Railroad bridge, mile 1.0 near Ansley, and the US 90 Highway bridge, mile 8.8 near Pearlington, shall open on signal; except that, from 9 p.m. to 5 a.m. the draws shall open on signal if at least four hours notice is given. During the advance notice period, the draws shall open on less than four hours notice for an emergency and shall open on signal should a temporary surge in waterway traffic occur.

Dated: October 28, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85-26838 Filed 11-8-85; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 2874-5]

Grants for Construction of Treatment Works

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes a limit on allowable costs under grants for construction of publicly owned treatment works (POTWs). This limit is intended to provide additional incentive for municipalities to manage their grant funds as efficiently as possible. It will limit allowable cost increases for new grants and for new subagreements under existing grants.

FOR FURTHER INFORMATION CONTACT: David P. Welch, Municipal Construction Division (WH-547), Environmental Protection Agency, Washington, DC 20460, (202) (382-5819).

EFFECTIVE DATE: The rule will be effective February 10, 1986.

SUPPLEMENTARY INFORMATION: On February 17, 1984, the Environmental Protection Agency (EPA) proposed a rule (49 FR 6113) to specify a maximum allowable project cost and requested comments on the proposal. Almost 70 comments were considered during the drafting of this final rule.

Experience in the construction grants program indicates that in a well managed construction project total cost increases generally amount to less than five percent of the original bid price. For this reason, we believe it is reasonable to limit grant increases to no more than five percent. Comments on the proposed rule included data supporting the five percent limit used here.

The rule applies to all construction grants regardless of the grant award date and is effective 90 days after it is published in the **Federal Register.** For Step 2+3 and Step 3 grants awarded before the effective date of this rule, increases in the allowable cost for work under each subagreement finally advertised (i.e., the advertisement resulting in award is published) on or after the effective date are limited to five percent of the initial award amount of the subagreement. The same limit will apply to cost increases under a non-advertised subagreement, e.g., sole source procurements, awarded on or after the effective date.

For Step 2+3 and Step 3 grants awarded after the effective date of this rule, increases in the allowable cost of the project will be limited to five percent of the sum of the initial award amount of prime subagreements, the initial amount approved for force account work, the purchase price of eligible real property, and the initial amount approved for other project costs, excluding amounts approved for an allowance under § 35.2025 and contingencies.

Almost two-thirds of the commenters noted that placing a limit on cost increases conflicts with requiring the inclusion of the differing site condition (DSC) clause in the subagreements (40 CFR 33.1030, clause number 4). This DSC clause is a risk sharing clause which fixes the rights and obligations of the recipient and its contractor regarding the extra cost that usually accompanies an unanticipated site condition. We have decided to exempt cost increases due to differing site conditions from the rule's five percent limit, provided the requirements of the change orders and claims regulation, 40 CFR Part 35, Subpart I, Appendix A, paragraph A.1.g., are met.

A number of commenters questioned the need for a limitation on maximum allowable project costs if, as stated in the preamble to the proposed rule, the cost increases on a majority of projects do not exceed five percent. Some commenters provided data indicating as many as 75 percent of their projects have cost increases of less than five percent. We agree that this rule will not affect many municipalities. However, we believe that this additional incentive will assure that all municipalities, particularly those that otherwise have cost increases exceeding five percent, manage their grant funds as efficiently as possible. To keep cost increases at a minimum, municipalities should retain qualified consultants, maintain schedules, conduct detailed site investigations, prepare adequate plans and specifications, resolve problems immediately and successfully manage their construction projects.

About one-fourth of the commenters stated that to apply the rule to new subagreements under grants awarded prior to the effective date of the rule, as proposed, would be an improper retroactive application of the rule. We do not agree. Applying the five percent limit to disallow unreasonable or unnecessary cost increases will not be an improper retroactive application of a rule but rather an application of the longstanding, fundamental rule of grants law that only reasonable and necessary costs are allowable. The five percent limit is a proper standard to use in applying this fundamental rule. However, we have modified the proposed rule. If a subagreement is advertised before the effective date of this regulation, which is ninety days from today, and that advertisement results in an award either before or after the effective date, the subagreement will be exempt from this regulation.

Over one-fifth of the commenters claimed that small communities may be less able to absorb project cost increases that exceed the five percent limit; and that a change on a small contract generally represents a much larger percentage of the total contract amount than the same change on large contracts. However, the data that we received did not substantiate these claims. The rule will apply equally to all communities. We will monitor the impact of the rule.

Several States are now proposing, or have in place, their own cost increase limitations. We have established the maximum allowable cost increase at five percent of the initial allowable cost of the project for new grants and five percent of the initial award amount of a subagreement for each new subagreement under existing grants. Promulgation of this rule does not preclude the Regional Administrator from accepting as reasonable a maximum allowable cost increase of five percent or lower previously or subsequently established by a State. Before accepting as reasonable a State-established maximum, the Regional Administrator should consider, among other things, the experience in that State with project cost increases. This rule will help States effectively use limited available funds and will also help States determine the total cost of all their projects, thereby facilitating State planning.

List of Subjects in 40 CFR Part 35

Grant programs, Intergovernmental relations, Waste treatment and disposal.

Regulation Development Process

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order or whether it may follow other regulation development procedures. I have determined this regulation is not a major regulation, and thus, is not subject to the impact

analysis requirements of Executive Order 12291.

Under the Regulatory Flexibility Act (5 U.S.C. 501) I hereby certify that this regulation will not have a significant impact on a substantial number of small entities. This rule would apply to all municipalities in the same way and there will not be a disproportionate impact on small municipalities. This regulation is not subject to the requirements of the Paperwork Reduction Act since it causes no information collection burden.

The involved program is listed in the *Catalog of Federal Domestic Assistance* as number 66.418—Construction Grants for Wastewater Treatment Works.

This regulation was submitted to OMB for review as required by Executive Order 12291.

Dated: October 9, 1985.

Lee M. Thomas,

Administrator.

For the reasons set forth in the Preamble, EPA is amending 40 CFR Part 35, Subpart I, by adding a new § 35.2205 to read as follows:

PART 35—[AMENDED]

1. The authority citation for Part 35 Subpart I is revised to read as follows:

Authority: Secs 101(e), 109(b), 201 through 205, 207, 208(d), 210 through 212, 215 through 219, 304(d)(3), 313, 501, 502, 511 and 516(b) of the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

2. Part 35 is amended by adding a new § 35.2205 to read as follows:

§ 35.2205 Maximum allowable project cost.

(a) *Grants awarded on or after the effective date of this regulation.* Except as provided in paragraph (c) of this section, for Step 2+3 or Step 3 grants awarded on or after the effective date of this regulation, the maximum allowable project cost will be the sum of:

(1) The allowable cost of the following:

(i) The initial award amount of all project subagreements between the grantee and its contractors;

(ii) The initial amounts approved for force account work to be performed on the project;

(iii) The purchase price of eligible real property; and

(iv) The initial amount approved for project costs not included under paragraphs (a)(1)(i) through (a)(1)(iii) of this section, excluding any amounts approved for an allowance under § 35.2025 and for contingencies; and

(2) Five percent of the sum of the amounts included under (a)(1)(i) through (a)(1)(iv) of this section.

(b) *Grants awarded before the effective date of the regulation.* Except as provided in paragraph (c) of this section, for Step 2+3 or Step 3 grants awarded before the effective date of this regulation, the maximum allowable increase in the cost for work covered by each subagreement finally advertised or, where there will be no advertisement, each subagreement awarded on or after the effective date of this regulation will be five percent of the initial award amount of the subagreement.

(c) *Differing site conditions.* In determining whether the maximum allowable project cost or increase in subagreement cost will be exceeded, costs of equitable adjustments for differing site conditions will be exempt, provided the requirements of 40 CFR Part 35, Subpart I, Appendix A, paragraph A.1.g. and all other applicable laws and regulations have been met.

[FR Doc. 85-26815 Filed 11-8-85; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 81

[EPA Docket No. 107-PA-23, A-3-FRL-2920-5]

Designation of Areas for Air Quality Planning Purposes Approval of State Implementation Plan Revision and Section 107 Designation for the Commonwealth of Pennsylvania

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving a request from the Commonwealth of Pennsylvania to revise the attainment status designation of ten (10) areas within the Central Pennsylvania Intrastate Air Quality Control Region (AQCR) with respect to Sulfur Dioxide (SO_2). These areas will henceforth be referred to as "the Sunbury area."

The request for redesignation of the Sunbury area is in accordance with the requirements of the stipulation and agreement of settlement between the Pennsylvania Power & Light Company (PP&L), Sunbury, PA and the Pennsylvania Department of Environmental Resources (PADER).

The Agreement specifies that should two years of monitoring data show attainment of the National Ambient Air Quality Standards (NAAQS), Pennsylvania would seek redesignation of the Sunbury area to attainment.

EFFECTIVE DATE: December 12, 1985.

ADDRESSES: Copies of the revisions and accompanying documents are available during normal business hours at the following offices.

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, 8th Floor, Philadelphia, PA 19107. Attn: Donna Abrams;

Commonwealth of Pennsylvania, Department of Environmental Resources, Harrisburg, PA 17120. Attn: Gary Triplett.

FOR FURTHER INFORMATION CONTACT: Donna Abrams (3AM11) at the EPA, Region III address above or call (215) 597-9134.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (Act) the Administrator of EPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for all areas within each State (see, 43 FR 8962 (March 3, 1978)). These area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation.

Background

The Pennsylvania Department of Environmental Resources (PADER) submitted to the U.S. Environmental Protection Agency (EPA), on September 25, 1984, a request to have the following areas redesignated with respect to SO_2.

Lower Augusta Twp., Point Twp., and Shamokin Dam Boro redesignated from "Does Not Meet Primary Standards" to "Better Than National Standards."

Little Mahanoy Twp., Rockefeller Twp., and Shamokin Twp. redesignated from "Does Not Meet Secondary Standards" to "Better Than National Standards."

Upper Augusta Twp., Sunbury Boro, Northumberland Boro, and Monroe Twp. redesignated from "Cannot Be Classified" to "Better Than National Standards".

The present designation status for SO_2 in the above areas was based upon a 1976 dispersion modeling study performed by Geomet for PADER; the study predicted certain exceedances of the NAAQS with respect to SO_2 in the Sunbury area.

In January, 1981, however, it was discovered that an error in the use of meteorological data in the original Geomet model caused the predicted exceedances. It was subsequently determined that if the model had been run properly, with the correct meteorological data, the Sunbury area would have been designated attainment in March, 1978.

In 1979, PP&L added three additional ambient SO_2 monitors, to the two monitors in existence, to sample air quality in the Sunbury area to ascertain the true attainment status. The three

additional stations, placed in service in April-May, 1979, were located, with the concurrence of PADER, near the Geomet predicted hot spots and with regard to land availability, local population exposure, site access, power and telephone availability. Data representing the SO_2 concentrations from April 1979 through September 1981, was submitted to EPA on December 29, 1981. EPA's review of the data indicated that there were no SO_2 ambient air exceedances during this preliminary monitoring period. Because of the error made in the use of meteorological data in the Geomet study and the subsequent monitoring data showing attainment, PADER and PP&L entered into a Consent Order and Agreement on March 30, 1982. This Agreement called for an additional two years of ambient monitoring commencing July 1, 1982. PP&L's existing monitoring network was reviewed and modified to more closely conform to points of maximum SO_2 concentrations. The modified network was approved by both PADER and EPA.

EPA has examined the available ambient air monitored data collected from July 1, 1982 through June 30, 1984 on a running average basis and has determined that there are no ambient violations of the standard.

Production levels at the Sunbury facility, which is the only major source of SO_2 in the area, were within 10% of the exiting State Implementation Plan (SIP) maximum allowable capacity (Article III of the Pennsylvania Air Resource Regulations, § 123.22(a)) throughout the course of the monitoring study.

The PADER and PP&L Agreement stipulated that if two years of monitoring data show attainment of the SO_2 NAAQS, PADER would seek redesignation to attainment for the Sunbury area. Therefore, PADER has requested this redesignation and, EPA has determined that this area should be redesignated to attainment.

A Notice of Proposed Rulemaking was published on April 22, 1985 (50 FR 15763). As a result of this Notice there were no adverse comments received. During this period, PP&L submitted additional monitoring data (July 1, 1984 through March 31, 1985) which showed continued attainment of the NAAQS and thereby supporting the redesignation request.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit January 13, 1986. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 31, 1985.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Part 81 of Title 40, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 31 continues to read:

Authority: 42 U.S.C. 7401–7642.

2. In § 81.339, Pennsylvania, the table entitled "Pennsylvania–SO_2" is amended by revising the entry IV to read as follows:

§ 81.339 Pennsylvania.

PENNSYLVANIA SO_2

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
I. * * *				
II. * * *				
III. * * *				
IV. Central Pennsylvania Intrastate AQCR:				X
V. * * *				
VI. * * *				

[FR Doc. 85–26809 Filed 11–8–85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL-2919-6]

Designations of Areas for Air Quality Planning Process; Attainment Status Designations; Ohio

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: USEPA is approving a request from the State of Ohio to revise the attainment status designation at 40 CFR 81.336 for Franklin, Delaware and Licking Counties in Ohio from nonattainment to attainment relative to the ozone National Ambient Air Quality Standard (NAAQS). Under the Clean Air Act, designations can be changed if sufficient data are available to warrant such a change.

EFFECTIVE DATE: This final rulemaking becomes effective on December 12, 1985.

ADDRESSES: Copies of the redesignation request, technical support documents and the supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch, 230 S. Dearborn Street, Chicago, Illinois 60604;

Ohio Environmental Protection Agency, Office of Air Pollution Control, 361 East Broad Street, Columbus, Ohio 43216.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 353–0396.

SUPPLEMENTARY INFORMATION: Under section 107(d) of the Clean Air Act (CAA) the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for all areas within each State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation.

Redesignation Request

On June 20, 1984, pursuant to section 107(d)(5) of the Clean Air Act (CAA), the Ohio Environmental Protection Agency (Ohio EPA) requested that Franklin, Delaware, and Licking Counties be redesignated to attainment of the ozone National Ambient Air Quality Standards (NAAQS).

Franklin County was originally designated nonattainment as a result of monitored exceedances of the ozone standard. Delaware and Licking, which are both rural, unmonitored counties, were designated nonattainment due to their proximity to upwind ozone precursor source areas. USEPA believes a nonmonitored, rural county should remain nonattainment for ozone if it is downwind of and adjacent to an urban area with a monitored ozone standard violation.

The Ohio EPA requested the redesignation of Franklin, Delaware, and Licking Counties based on ozone data from three monitors in the Columbus metropolitan area (Franklin County). These data cover the period of January 1981 through December 1983. During the 3 year period, two exceedances occurred at one monitoring site, one at another site and none at a third site.

The expected exceedances were calculated using procedures given in the "Guideline for the Interpretation of

Ozone Air Quality Standards", which assumes an ozone season (the period relatively high ozone concentrations may be expected) of April through October. This guidance provides that the number of expected exceedances at a monitoring site are to be recorded for each calendar year, and then averaged over the most recent 3 calendar years to determine if this average is less than or equal to 1.0. Using this guidance, the annual average expected exceedance level for the Columbus metropolitan area over the 1981–9183 period is less than 1.0 for all three sites. In addition, the 1984 data had 0 exceedances. Therefore, no violation of the ozone standard was observed in Franklin County.

The observed air quality improvements in Franklin County are the result of the implementation of the control plan adopted in the 1979 ozone SIP. Stationary and mobile source controls have reduced volatile organic compound emissions by 16,298 tons/years from the 1975 base year level. USEPA approved Ohio's 1979 ozone SIP control strategy on October 31, 1980 (45 FR 92122) and June 29, 1982 (47 FR 28097).

USEPA's Proposed Action

On February 15, 1985 (50 FR 6365), USEPA proposed to approve the request from the State of Ohio to revise the attainment status designations at 40 CFR 81.336 for Franklin, Delaware and Licking Counties in Ohio from nonattainment to attainment relative to the ozone NAAQS. In that notice, USEPA discussed the results of its review of the State's redesignation request and provided an opportunity for the public to comment.

Public Comments

Two sets of comments were received by USEPA during the public comment period. The comments and USEPA's responses are discussed below.

Comment: Although both commenters agreed with USEPA's proposed action, one of the commenters (Ohio EPA) objected to the inclusion of three ozone redesignation policies in the notice of proposed rulemaking for the following reasons: (1) The situations to which USEPA would apply these policies do not exist in this rulemaking and it is, therefore, inappropriate for USEPA to discuss them, and (2) the State believes these ozone redesignation policies express an incorrect and inappropriate interpretation of the Clean Air Act.

USEPA Response: Although USEPA recognizes that portions of the three ozone redesignation policies mentioned are not specifically relevant to this rulemaking, they were listed to provide the public with a clear picture of all the policies and practices of the Agency regarding redesignation of ozone nonattainment areas. A rulemaking notice too narrowly drawn may not provide the public with sufficient background to comment meaningfully.

With respect to the State's objections to the policies themeselves, as noted in the State's comments, these issues are currently before the U.S. Court of Appeals for the Sixth Circuit in *Ohio* v. *Ruckelshaus* No. 84–3667, where they will be decided.

Comment: Ohio EPA also commented that the proposed rule was published several months beyond the deadline specified in the Clean Air Act for USEPA to act on redesignation requests. The State said that section 107(d)(2), 42 U.S.C. section 7407(d)(2), requires the Administrator to promulgate the list of attainment status designations within 60 days of submittal of the list by the State. Section 107(d)(5), which provides for redesignation of such areas, pursuant to a request from the State, requires USEPA to act on such a request in accordance with section 107(d) within 60 days.

USEPA Response: The 60-day requirement of section 107(d)(2) applies to original designations under section 107(d)(1), and is not applicable to revisions of attainment designations under section 107(d)(5).

Conclusion

Review of the available ozone data shows that no violations of the ozone NAAQS have been monitored in Franklin County in the most recent 3 years. The Ohio EPA indicates that this is due to emission controls in the Columbus metropolitan area. USEPA has concluded that Franklin County is now in attainment of the ozone standard. Additionally, because the rural, unmonitored counties of Delaware and Licking were originally designated nonattainment, based on their proximity to the Franklin County ozone nonattainment area, USEPA has concluded that these counties also are no longer nonattainment. USEPA has assumed that the ozone monitored in Franklin County is representative of the worst-case conditions in all three counties. Therefore, USEPA is redesignating Licking, Delaware, and Franklin Counties to attainment for ozone.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 13, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air pollution control, National parks, Wilderness areas.

Dated: October 31, 1985.

Lee M. Thomas,

Administrator.

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

Ohio

Part 81 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7402.

2. Section 81.336 is amended by revising the Ohio—Ozone (O_3) for Delaware, Franklin and Licking Counties table as follows:

§ 81.336 Ohio

* * * * *

OHIO—OZONE O_3

Designated area	Does not meet primary standards	Cannot be classified OR better than national standards
* * *	*	*
Delaware		X
Franklin		X
Licking		X
* * *	*	*

[FR Doc. 85–26870 Filed 11–8–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 412

[BERC-361-N]

Medicare; Delay in Implementing Certain Changes to the Prospective Payment System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of legislative postponement of certain effective dates of final rules.

SUMMARY: This notice identifies provisions in Medicare prospective payment regulations that are affected by enactment of the Emergency Extension Act of 1985. That Act extended through November 14, 1985, the Federal fiscal year 1985 rules for determining amounts of Medicare payment to hospitals under the prospective payment system and the rate-of-increase limits for hospitals excluded from that system.

FOR FURTHER INFORMATION CONTACT: Linda Magno, (301) 594-9343.

SUPPLEMENTARY INFORMATION: On September 30, 1985, Congress passed and the President signed the Emergency Extension Act of 1985 (Pub. L. 99-107). Section 6(a) of Pub. L. 99-107 extended through November 14, 1985 the Medicare payments rates that were in effect on September 30, 1985 for inpatient hospital services. A result of this delay is that certain changes in the rules that govern Medicare payment for inpatient hospital services, which would have become effective on October 1, 1985 for Federal fiscal year 1986, are postponed until November 15, 1985. The changes concern the rules (implementing sections 1886 (b) and (d) of the Social Security Act) for determining the payment rates for hospitals covered by the prospective payment system and the target rates of increase for hospitals excluded from that system.

We are issuing this notice to inform the public that, as a result of the September 30 enactment, revised payment rates and the amendments to 42 CFR 412.118 (f)(2) and (f)(3) (Determination of indirect medical education costs—limits on count of interns and residents) that were originally scheduled to be effective on October 1, 1985 under the September 3, 1985 final rule (50 FR 35646) are now postponed until November 15, 1985. In addition, the postponement mandated by Pub. L. 99-107 affected the following prospective payment regulations in 42 CFR Part 412 (50 FR 12740, March 29, 1985).

- Sections 412.63 (c)(3) and (d)—Federal rates for fiscal years after Federal fiscal year 1985.
- Sections 412.70 (c)(3), (c)(4), (d)(2) and (d)(3)—General description of the determination of transition period payment rates.
- Section 412.73(c)(3)—Determination of the hospital-specific rate.
- Section 412.80(a)(1)(ii)(B)—General provisions concerning payment for outlier cases.
- Section 412.82(c)—Payment for extended length of stay cases (day outliers).

(Secs. 1102, 1871, and 1886 of the Social Security Act; 42 U.S.C. 1302, 1395hh, and 1395ww)

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance Program)

Dated: October 30, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 85-26804 Filed 11-8-85; 8:45 am]

BILLING CODE 4120-01-M

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42 CFR Parts 432, 433, 435, and 436

[BPO-500-F]

Medicaid Program; Third Party Liability for Medical Assistance; FFP Rates for Skilled Professional Medical Personnel and Supporting Staff; and Sources of State Share of Financial Participation

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final regulations.

SUMMARY: These final regulations—

(1) Broaden the scope of services for which a State must collect from third parties the cost of medical assistance furnished to Medicaid recipients, revise the methods of paying claims involving third party liability, and make conforming changes to incorporate a statutory provision that requires the assignment of medical support rights and other third part payments and cooperation in establishing paternity and obtaining support as a condition of eligibility for Medicaid;

(2) Revise and clarify criteria used in determining whether skilled professional medical personnel and directly supporting staff involved in the administration of the Medicaid program qualify for 75 percent Federal matching; and

(3) Clarify policy to permit public and private donations to be used as a State's share of financial participation in the entire Medicaid program, instead of only for training expenditures.

These amendments are a combination of steps to remove unnecessary requirements in our regulations and to include provisions that will improve the administration of the Medicaid program. They also conform the Medicaid regulations to certain provisions of the Deficit Reduction Act of 1984 (Pub. L. 98-369).

EFFECTIVE DATES:

1. The amendments to the regulations relating to Federal financial participation for skilled professional medical personnel and directly supporting staff under §§ 432.2, 432.45, 432.50, and 433.15 are effective on February 10, 1986.

2. The amendments to the regulations relating to the mandatory assignment of medical support rights and other third party payments as a condition of eligibility and to cooperative agreements under §§ 433.135, 433.137(b), 433.145, 433.151, 433.152, 435.604, and 436.604 are effective on December 12, 1985. (In the case of a Medicaid State plan that HCFA determines needs State legislation in order for the plan to comply with the requirements in these amendments, the State will not be held out of compliance before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after July 18, 1984 (the date of enactment of Pub. L. 98-369).)

3. The amendments to the regulations relating to payment of claims involving third party liability under §§ 433.137(a) and 433.139, to general third party liability provisions under §§ 433.136 and 433.149, and to sources of State financial participation under §§ 432.60 and 433.45 are effective on December 12, 1985.

FOR FURTHER INFORMATION CONTACT:

Third Party Liability—Herb Shankroff (301) 594-6710.

Eligibility Conditions—Marinos Svolos (301) 549-9050.

Rate of FFP—David McNally (301) 597-1398.

Sources of State Share of Financial Participation—Sue Knefley (301) 594-8504.

SUPPLEMENTARY INFORMATION:

General Background

This document makes changes in certain regulations governing the administration of the Medicaid program to: (1) Remove unnecessary requirements in the regulations and include provisions that will improve program administration relating to third party liability, Federal financial participation (FFP) in the cost of compensation and training for skilled professional medical personnel and directly supporting staff, and sources of the State's share of financial participation; and (2) conform the regulations to statutory provisions of section 2367 of the Deficit Reduction Act (Pub. L. 98-369, enacted on July 18, 1984) that require applicants and recipients of Medicaid, as a condition of eligibility, to assign any rights to medical support or other payments for medical care to the Medicaid agency and to cooperate with the State in establishing paternity and obtaining support or other payments and that require States to provide for

entering into cooperative agreements for the enforcement of rights to and collection of third party benefits. These agreements may be with the State child support enforcement (title IV-D) agency, any appropriate agency of any State, and appropriate courts and law enforcement officials. (For purposes of title XIX of the Social Security Act, medical support is the legal obligation, established under a court order or an administrative procedure under State law, of a spouse or absent parent to provide for medical expenses of a Medicaid recipient. This obligation is usually met through purchase of health insurance rather than through direct payment of medical expenses.)

These changes are a result of our ongoing review of the requirements in our regulations and changes to legislation.

On June 4, 1984, we published in the Federal Register (49 FR 23078) a notice of proposed rulemaking that addressed most of the amendments of the Medicaid regulations included in this document. We received 42 comments on the proposed regulations from State welfare and health agencies, a State Medicaid directors' association, medical and health care associations, a hospital, private welfare agencies, citizens' groups, and private citizens. We also held meetings with two State Medicaid advisory groups to obtain comments. A summary of these public comments, our responses, and an explanation of any changes made in these final regulations as a result of the comments are discussed under the section "Summary of Public Comments on Proposed Rules and Department Responses" presented later in this document.

Discussion and Provisions of Final Regulations

Third Party Liability

Section 1902(a)(25) of the Social Security Act requires that State or local Medicaid agencies take all reasonable measures to ascertain the legal liability of third parties to pay for care and services furnished to Medicaid recipients. This section requires the agency to seek reimbursement from a third party to the extent that the party is legally liable for services "arising out of an injury, disease, or disability."

Section 2367 of Pub. L. 98-369 added a new section 1902(a)(45) to the Act to provide, as a Medicaid State plan requirement, for mandatory assignment of rights to payments for medical support and other medical care owed to recipients in accordance with section 1912 of the Social Security Act. Section 2367 also amended section 1912 to require (rather than allow as an option) the State Medicaid plan (1) to provide that, as a condition of eligibility for medical assistance, individuals must assign to the State their rights to any medical support or other payments for medical care and to cooperate with the State in establishing paternity and obtaining third party payments; and (2) to provide for States to enter into cooperative agreements for the enforcement of rights to and collection of third party benefits. These agreements may be with the State child support enforcement (title IV-D) agency, any other appropriate agency of any State, and appropriate courts and law enforcement officials. Section 2367 has a statutory effective date of October 1, 1984. However, in the case of a Medicaid State plan that HCFA determines needs legislation in order for the plan to comply with the statutory requirements, the State will not be held out of compliance before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of Pub. L. 98-369.

Section 1903(o) of the Act prohibits Federal matching of State Medicaid payments if a private insurer would have been liable to pay for the care except that the insurance contract limits or excludes liability when the individual is eligible for Medicaid. Section 1903(d)(2) of the Act provides for consideration of the Federal share of any amounts recovered by a State from a third party for medical assistance as an overpayment to the State, and for appropriate adjustment of the quarterly Medicaid payments made by the Federal Government to the State.

In these final regulations, we have made changes in several areas relating to third party liability:

1. *Broader definitions.* We have broadened the definitions of "third party" and "private insurer" (§ 433.136) to eliminate the effect that they have had of restricting collections to expenditures for services relating to the diagnosis or treatment of an injury, disease, or disability. While the statute mandates collection in these situations, it does not preclude collections of expenditures for other services that are furnished to recipients under a State's Medicaid plan, e.g., prenatal care, well-baby visits, routine physical examinations, etc. We have replaced the phrase "injury, disease, or disability" in the two definitions with a broader phrase that will require States to collect from third parties for the cost of any medical assistance furnished to a recipient under the approved State plan.

2. *Payment of claims involving third party liability.* Current regulations (§ 433.139) provide States with two methods of paying claims that involve third party liability. Under the first method, if the amount of third party liability is established, the agency pays only to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party liability. The second method permits the agency to pay the total amount allowed under the agency's payment schedule and then seek reimbursement from liable third parties. States have flexibility to use either payment method under any circumstance.

Program experience has indicated that, when third party liability is known or there is a reasonable expectation, based on the nature of the claim and type of insurance, that third party payment on a claim will be made, it is more cost effective for the State to pay the claim only to the extent that the agency's payment exceeds the amount of the third party liability. Areas of potential savings from the use of a method of paying claims only to the extent that the agency's payment exceeds the amount of third party payment (sometimes referred to as a "cost avoidance" method) include:

- Administrative savings from using fewer personnel and other resources to administer the filing of claims with third party payers and resulting receivable system;
- Program savings in interest loss because Medicaid program dollars are not outstanding with the providers before the third party payment is received;
- Administrative savings of claim processing costs for those claims that providers submit directly to the third party instead of to Medicaid;
- Program savings from small dollar claims that are not submitted to Medicaid due to the minimal individual amount left over after the third party pays; and
- Program savings because third party payers are more likely to reimburse claims from providers of services rather then Medicaid because assignment of rights problems are diminished.

Under these revised final regulations, which apply to claims involving third party liability that are processed on or after May 12, 1986, we require State agencies to use the cost avoidance method of payment in circumstances in which the agency (during the eligibility, claims processing, medical support collection, or third party recovery processes or any other third party related activity) has established the

probable existence of third party liability at the time the claim is filed, unless a waiver is requested by the State within a specified time and approved by the HCFA Regional Office. (State agency procedures for determining the likelihood of third party liability and subsequent payment may take into account the type of medical expenses and type of insurance involved on a particular claim.) A State may request a waiver of the required cost avoidance method if it is using, as of the publication date of these regulations, the method of paying the entire claim and then seeking reimbursement, and if it submits appropriate documentation that its method is as cost effective as the cost avoidance method to the HFCA Regional Office within 60 days of the publication date of these regulations. The request to have the requirement waived must be approved by the Regional Office. The Regional Office will notify the State of its determination within 30 days of the receipt of a request for a waiver of the requirement. The waiver will be granted for an indefinite period unless othewise specified in the approval notice. A State that is granted a waiver must notify the Regional Office of any event that occurs that changes the cost effectiveness of the approved method. The Regional Office may rescind the waiver at any time that the State's method is no longer as cost effective as the required cost avoidance method. If the waiver is denied or rescinded, the State has 6 months from the date of the denial or rescission notice to implement a cost avoidance method (a time period that is consistent with that allowed other States to come into compliance with the requirements for a cost avoidance method). (The waiver provisions were not included in the proposed rules. They were added in response to public comments.)

We believe that the increased cost savings in administering the provision for partial claims payment outweigh the benefit of permitting the option of full payment with subsequent recovery. States that do not have a cost avoidance method in place as of the publication date of these final regulations and that do not request a waiver of the requirement to use the cost avoidance method are required to either revise their current method or install a cost avoidance method for claims involving third party liability that are processed on or after May 12, 1986.

When the probable existence of third party liability cannot be established or third party benefits are not available to pay the recipient's medical expenses at the time the claim is filed, a State would pay the entire claim and then seek reimbursement from any liable third party. All States must submit documentation of their methods for paying claims involving third party liability (e.g., cost avoidance, "pay-and-chase") to the HCFA Regional Office by the date on which the requirements in the regulations must be implemented May 12, 1986.

We also have revised the prescribed 30-day time limit for filing claims to recover from liable third parties under § 433.139. We believe it is more appropriate to allow time limits for filing claims for recovery of 60 days from the end of the month in which payment is made or 60 days from the end of the month that the State agency learns of the existence of the liable third party. This change will give States more flexibility. The 60-day limit is consistent with the average time limit under generally accepted insurance practices. (In the proposed regulations, we had originally proposed to delete the time limit. After further analysis, we now believe it is more appropriate to specify a limit that is consistent with generally accepted insurance practices.)

3. *Assignment of medical support rights and cooperative agreements for third party collections.* We have revised §§ 433.137, 433.145, 435.151, 435.604, and 436.604 to conform them to the statutory provisions of Pub. L. 98-369 that require the assignment of medical support rights and other third party payments and cooperation in establishing paternity and seeking support and other payments as a condition of eligibility for Medicaid, and that require States to provide for entering into cooperative agreements for the enforcement of rights to and collection of third party benefits. These agreements may be with the State child support enforcement (title IV-D) agency, any appropriate agency of any State, and appropriate courts and law enforcement officials. (Pub. L. 98-369 was enacted after the issuance of the June 4, 1984 notice of proposed rulemaking. Therefore, these provisions were not included in the proposed rules.) We also have revised § 433.145 to clarify the terms of the assignment by stating that the assignment will be effective only for third party payments for services furnished to recipients that are reimbursed by Medicaid. In addition, we have deleted § 433.149, which specifies that the agency must restore to an individual who has assigned medical care support to Medicaid his future rights to that support after eligibility for Medicaid ends. Since the assignment of rights is not effective for payments for services furnished after Medicaid eligibility ends as stated in the revision of § 433.145, there is no need to cancel the assignment when eligibility is terminated.

We have revised § 433.151 to conform to the language of the statute which requires rather than allows a State plan to provide for entering into cooperative agreements for the enforcement of rights to and collection of third party benefits. We are requiring State Medicaid agencies to have a written agreement or agreements with some appropriate entity. This entity may be the State child support enforcement (title IV-D) agency, any appropriate agency of any State, or appropriate courts and law enforcement officials.

We have revised § 433.152, which contains detailed requirements for the terms of all cooperative agreements between the State Medicaid agency and the State child support enforcement (title IV-D) agency, any appropriate agency of any State, and appropriate courts and law enforcement officials for the enforcement of rights to and collection of third party benefits. The revision incorporates the requirements under section 2367 of Pub. L. 98-369 relating to cooperative agreements and makes other technical changes to allow States more flexibility in developing these agreements. Specifically, we have deleted most of the details on the terms of agreements because we believe that they are too prescriptive. We specify that the State may develop the terms of individual agreements at its own discretion, as agencies may wish to vary slightly the terms of the agreements to account for individual circumstances. We believe they should have that right. We have clarified the provisions of this section to indicate that the specific requirements of the Office of Child Support Enforcement for agreements with title IV-D agencies (45 CFR Part 306) are still applicable. We also have conformed the language relating to reimbursement requirements to make it consistent with provisions of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) by specifying that Medicaid will reimburse the title IV-D agency only for the cost of those services necessary for Medicaid collection and medical support activities that are performed beyond the activities required under section 16 of the Child Support Enforcement Amendments of 1984.

Rates of Federal Financial Participation (FFP) for Compensation and Training of Skilled Professional Medical Personnel

Section 1903(a) of the Social Security Act provides for variable Federal matching rates to States for administrative functions under Medicaid. The majority of activities that are necessary for the proper and efficient operation of a State Medicaid plan, including compensation and training for most of the agency's staff, are financed at the FFP rate of 50 percent. However, certain specific costs, such as compensation and training of skilled professional medical personnel and clerical staff directly supporting these personnel, administration of family planning services, and certain functions related to the Medicaid Management Information System (MMIS) are financed at higher FFP rates. Section 1903(a)(2) of the Act provides for Federal matching at 75 percent for compensation and training of skilled professional medical personnel and their directly supporting staff. It also provides for 75 percent FFP for skilled professional medical staff and directly supporting staff of other public agencies with which the Medicaid agency contracts for administration of the medical phases of the Medicaid program.

The intent of these provisions is to encourage State agencies to employ personnel who have the professional medical expertise necessary to develop and administer Medicaid programs that are medically sound as well as administratively efficient. Professional medical knowledge is needed to shape the medical aspects of the program, including the determination of which medical services should be included in a well-balanced medical benefit program, coordination of available medical resources, and establishment of working relationships with the professional medical community. Although the Medicaid agency uses skilled professional *Medicaid* personnel in various capacities, not all of them are skilled professional *medical* personnel whose costs qualify for 75 percent Federal matching.

Over the years, there has been diversity in interpreting and applying the criteria used to determine what types of personnel and job functions qualify for 75 percent FFP as skilled professional medical personnel and directly supporting staff. This has resulted, in some cases, in different matching rates being paid to States for the same types of staff.

The intent of the law is to provide increased FFP for medical staff, not nonmedical staff. This is evidenced in the Senate Finance Committee report that accompanied the 1965 Social Security Amendments (Report of the Committee on Finance to Accompany H.R. 6675, 89th Cong., 1st Sess., S. Rept. No. 404, Pt. 1, June 30, 1965, p. 83). The term "skilled professional medical personnel" is not meant to include nonmedical health professionals, such as public administrators, medical budget directors or analysts, lobbyists, or senior managers of public assistance or Medicaid programs. We recognize that it is necessary to have a variety of nonmedical health professionals and that these personnel may possess an equivalent level of education, work experience, and certification as those in the medical care field. However, the law does not provide for 75 percent Federal matching for these personnel.

"Supporting staff" is defined in the Senate report as "clerical staff." We have interpreted clerical staff to mean secretarial, stenographic, and copying personnel, and file and records clerks that provide direct support to the skilled professional medical personnel. The costs of other subprofessional staff not performing clerical functions are not eligible for 75 percent FFP as "directly supporting staff."

The changes in FFP limitations addressed in this document do not apply to matching rates for States personnel who are involved in the survey and certification of facilities participating in Medicaid. The FFP matching rates for these survey personnel will be addressed in a separate document.

We have revised the regulations relating to 75 percent FFP for skilled professional medical personnel and directly supporting staff, other than State personnel involved in the survey and certification of Medicaid facilities, to clarify which personnel are eligible for the higher matching rate. We have clarified the definitions of "skilled professional medical personnel" and "directly supporting staff." "Skilled professional medical personnel" includes only professionals in the field of medical care. "Directly supporting staff" includes only those clerical job responsibilities that directly support skilled professional medical personnel (§ 432.2).

We also have incorporated in the regulations under § 432.50 the criteria specified below to clarify further which costs for skilled professional medical personnel and directly supporting staff qualify for 75 percent FFP. All applicable criteria must be satisfied to establish whether the personnel and directly supporting staff qualify for increased FFP. These criteria are the same as those in the proposed rules, with the following changes:

- We have further clarified "supporting staff" by including copying staff and file and records clerks (in addition to secretarial and stenographic staff) as clerical staff to make the reference to the term "clerical staff" consistent with the generally accepted definition of the term. We also have referenced these staff as "directly supporting staff" to clarify the level of direct supervision (immediate first-level supervision) required for these staff, as specified in the statute.
- We have provide for recognition of "*2 years or longer* programs leading to academic degrees or certificates in medically related professions" as professional education and training.

1. *Costs must be for activities directly related to the administration of the title XIX program.* FFP at 75 percent is available only for the costs of compensation, travel, and training of skilled professional medical personnel and their directly supporting staff who are involved in activities that are necessary for the proper and efficient *administration* of the Medicaid State plan. Expenditures for the actual furnishing of medical services by skilled professional medical personnel do *not* qualify for Federal matching at 75 percent.

2. *Skilled professional medical personnel must have professional education and training in a medical field.* Skilled professional medical personnel are required to have education and training at a professional level in the field of medical care or appropriate medical practice before FFP can be claimed at 75 percent.

The Social Security Amendments of 1965 which created the Medicare and Medicaid programs did not define "professional medical personnel." However, the Senate Finance report which accompanied the legislation, cited earlier, states that the "staff will include physicians, medical administrators, medical social work personnel, and other specialized personnel necessary to assure an adequate number of persons to do a quality job. * * *."

All examples of skilled professional medical personnel given in the Congressional Committee report and in existing regulations have one element in common: All indicate that these staff have education and training at a professional level in the field of medical care or apropriate medical practice.

"Education and training at a professional level" means the

completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This may be demonstrated by possession of a medical license or certificate issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience in the aministration, direction, or implementation of the Medicaid program will *not* be considered the equivalent of professional training in a field of medical care.

3. *Professional medical expertise must be necessary to fulfill the responsibilities of the skilled professional medical personnel's position.* The intent of section 1903(a)(2) of the Act is to ensure the intergrity of the many diverse medical aspects of the Medicaid program by providing an incentive to State agencies to employ skilled professional medical personnel with respect to those medically-related program activities. The law did not intend to provide 75 percent FFP merely to any staff person who has qualifying medical education and training and experience, without regard to his actual responsibilities. Rather, the function performed by the skilled professional medical personnel must be one that requires that level of medical expertise in order to be performed effectively. Consequently, 75 percent FFP is only available for those positions that require professional medical knowledge and skills, as evidenced by position descriptions, job announcements, or job classifications.

Examples of functions that would meet these criteria include, but are not limited to, the following:

- Acting as a liaison on the medical aspects of the program with providers of services and other agencies that provide medical care.
- Furnishing expert medical opinions for the adjudication of administrative appeals.
- Reviewing complex physician billings.
- Providing technical assistance and drug abuse screening on pharmacy billings.
- Participating in medical review or independent professional review team activities.
- Assessing the necessity for and adequacy of medical care and services provided, as in utilization review.
- Assessing, through case management activities, the necessity for and adequacy of medical care and services required by individual recipients.

It should be noted that none of the functions listed above includes the provision of medical care and services. Provision of medical care and services would always be considered medical assistance rather than administration.

When the function of skilled professional medical personnel is the application of administrative practices and procedures unrelated to the specialized field of medical care and requires no skilled medical training, the costs are matched at 50 percent FFP. For example, the costs of a physician in charge of an accounting operation are eligible for FFP only at 50 percent.

4. *An employer-employee relationship must exist between the State agency and the skilled professional medical personnel and directly supporting staff.* As evidenced by the statutory language and legislative history of section 1903(a)(2), the 75 percent FFP rate is applicable to costs of specific personnel and staff of the Medicaid agency or any other public agency. We have consistently interpreted this provision to authorize the 75 percent FFP rate only for personnel who are employed by the agency. Therefore, in most cases, FFP at 75 percent is not authorized for contracts with private organizations or independent contractors. There are instances in which the agency contracts for personnel services as a common method of securing the services of skilled professional medical personnel without going through the formalities of merit hiring. If a Medicaid agency claims FFP at 75 percent for these personnel, it must demonstrate that a documented employer-employee relationship exists between them and the Medicaid agency.

It is fundamental to contract law that the substance of a transaction, rather than its form, is controlling. HCFA may conduct an examination of the actual duties performed, responsibilities assumed, and manner of performing the duties and responsibilities that have been established to determine if the facts, including the State's documentation of the employment relationship, indicate the existence of an employer-employee relationship. It is the substantive relationship between the parties under State law that is critical in determining, on a case-by-case basis, whether an employer-employee relationship exists, not the mere existence of a contract.

5. *The directly supporting staff must provide clerical services that are directly necessary for carrying out the professional medical responsibilities and functions of the skilled professional medical personnel.* As stated earlier, "supporting staff" is defined in the congressional report as "clerical staff." "Clerical staff" is interpreted to mean secretarial, stenographic, and copying personnel, and file and records clerks that provide direct support to the skilled professional medical personnel. It does not include the cost of other subprofessional staff not performing clerical functions.

Eligibility for increased FFP for directly supporting staff is based on the concept in the law of "direct support." "Direct support" means the provision of clerical services which are directly necessary to the completion of the professional medical responsibilities and functions of skilled professional medical personnel. There must be documentation showing that the clerical services provided by the supporting staff are directly related and necessary to the execution of the skilled professional medical personnel's responsibilities. In order for the clerical services to be directly related to skilled professional medical personnel's responsibilities, the skilled professional medical personnel must be immediately responsible for the work performed by the clerical staff and must directly supervise (immediate first-level supervision) the supporting staff and the performance of the supporting staff's work.

6. *Skilled professional medical personnel and direclty supporting staff of other public agencies must meet all of the applicable criteria included items 1 through 5 and this must be verified in a written agreement with the Medicaid agency.* Skilled professional medical personnel and directly supporting staff employed by public agencies other than the Medicaid agency (or, in the case of separate program divisions housed within an "umbrella" agency, employed in other than the Medicaid component) often assist the administration of the Medicaid program. FFP at 75 percent is available for the costs of compensation, travel, and training of these personnel and directly supporting staff if there is a written interagency or interagency agreement that specifically demonstrates that non-Medicaid staff and their functions meet all the applicable criteria, and that they assist the Medicaid agency, or the Medicaid agency's skilled professional medical personnel in activities that are directly related to the administration of the Medicaid program."Directly related" means performing duties that are necessary to the operation of the Medicaid program for which the State Administrator of the Medicaid program is accountable. The agreement must outline the activities the other public agency will perform to assist in the administration of the Medicaid program.

7. FFP must be prorated for split functions of skilled professional medical personnel and directly supporting staff. If the skilled professional medical personnel or directly supporting staff time is split among different functions, some of which do not qualify for 75 percent FFP, the skilled professional medical personnel and directly supporting staff costs must be allocated among the various functions. The allocation must be based on either the actual percentage of time spent within each function or another methodology that is approved by HCFA.

Sources of State's Share of Financial Participation

Section 1902(a)(2) of the Social Security Act requires States to share in the cost of medical assistance expenditures, but permits both State and local governments to participate in the financing of the non-Federal portion of the Medicaid program. This section specifies the percentage of the State's share of these costs and requires that this share be sufficient to assure that lack of adequate funds from local sources will not prevent the furnishing of services equal in amount, duration, scope, and quality throughout the State.

As State fiscal budgets have become more austere, State legislatures have looked increasingly to alternative sources for funding a larger portion of the Medicaid program. Questions have arisen regarding the use of public and private donations as sources of State's share of financial participation.

The definition of "State funds" generally used by States means funds over which the State legislature has an unrestricted power of appropriations. Therefore, in order for donations from public or private sources to be considered as the State's share of financial participation in Medicaid, we issued regulations (§ 432.60) for determining when donations ceased being local or private funds and became State funds for purposes of a Federal program. In developing the regulations, we wanted to ensure that the Medicaid agency maintained administrative control and unrestricted power of allocation of all donated funds. Section 432.60 outlines the conditions under which public and private funds may be considered as the State's share of Medicaid expenditures.

At the time the regulations were formulated, there was some concern about potential for abuse. We wanted to prevent donations that could be conditional on some benefit to the donor. For example, we were particularly concerned that a "kickback" situation could result from private donations made by a proprietary organization, such as a long-term care facility or data processing company, in return for Medicaid business. Therefore, the regulations permitted use of public and private funds as the sources of the State's share of financial participation only for one category of costs—training expenditures.

Experience has shown no abuse of public and private funds through conditional donations or kickbacks. Generally donated funds are commingled with all other Medicaid funds under the State agency's administrative control. By limiting the use of donations as State funds only to expenditures for training, the regulations have placed an administrative burden on the States in terms of cost allocation. Furthermore, if a State were to receive donations in an amount greater than its total training expenditures, the excess funds could not be used as the State share of other Medicaid expenditures.

We have revised the requirements under § 432.60 to permit public and private donations to be used as a State's share of financial participation in the entire Medicaid program, rather than just training expenditures. The revision permits States more flexibility in administering their programs and reduces the recordkeeping necessary to relate donated funds exclusively to training expenditures. Section 432.60 is in Part 432—State Personnel Administration of the Code of Federal Regulations. Because the revised requirements are no longer limited to training costs, we have redesignated them as § 433.45 of Part 433—State Fiscal Administration.

Summary of Public Comments on Proposed Rules and Department Responses

Definitions of Private Insurer and Third Party

Comment: Nine commenters supported the broadened definitions. One commenter expressed concern about the absence in the definition of a private insurer of a specific reference to self-insurance that meets the requirements published by the U.S. Department of Labor under title I of the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides for self-insurance health benefit plans through unions and self-funded employer benefit plans in some large publicly and privately owned business entities.

Response: The provision under section 1902(a)(25) of the Social Security Act that requires State Medicaid agencies to seek reimbursement from third parties who are liable to pay for medical care and services to recipients is broad enough to permit a State to seek reimbursement from all forms of insurance. We have not made any additional change in the definition of private insurer because we believe that the specific language under the existing § 433.136 already adequately covers the commenter's concern—"any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services, including self-insured and self-funded plans."

Comment: One commenter objected to the effect that the application of the revised definition of third party might have on liability of an elderly spouse if a State implements the requirement for use of the cost avoidance method of paying claims involving known third party liability. The commenter believed that an elderly spouse could be considered a liable third party in determining probable existence of third party liability on a claim, and that this could result in withholding of reimbursement for services provided to an institutionalized spouse.

Response: The revised definition of third party has not changed from the previous definition in relation to the commenter's objection. The revised definition, as well as the previous definition, includes "any individual, entity, or program that is or may be liable to pay all or part. . . ." The only difference in the definition is the scope of services for which collection can be made, which not includes any medical assistance furnished beyond that relating to the diagnosis or treatment of an injury, disease, or disability, such as prenatal care, well-baby visits, routine physical examinations, etc. The approved practices that a State applied under the previous definition of third party may continue under the revised definition. The revised section 433.139 permits States to have the requirement to use the cost avoidance method waived if they are using, as of the publication date of these regulations, the method of paying the entire claim and then seeking reimbursement from any liable third party, if they can document that their method is as cost effective as the cost avoidance method, and if they receive the approval of the HCFA Regional Office.

Payment of Claims Involving Third Party Liability

Comment: While eight commenters generally supported the overall third party liability changes, four of these and six other commenters objected to the requirement that States use the cost avoidance method in paying claims when the agency has established the probable existence of third party liability. They believed that the requirement would not be cost effective for most States and would increase the administrative burden on providers. Three commenters pointed out that States should be allowed the flexibility to make third party collections in a manner most cost-effective for them and suggested that States with "pay-and-chase" methods in place be granted waivers of the requirement to use the cost avoidance method if they can provide evidence that their methods are cost effective.

Response: We have retained the requirement that States use the cost avoidance method because program experience demonstrates that the method is cost effective. Nevertheless, we recognize that there are some State agencies with effective methods of making full payment with subsequent recovery and that an immediate required change to the cost avoidance method would impose on them unnecessary delays and costs because of system changes and implementation time. Therefore, we have revised § 433.139 to permit States to have the requirement to use the cost avoidance method waived if they are using, as of the publication date of these regulations, the method of paying the entire claim and then seeking reimbursement from any liable third party and if they can document that their method is as cost effective as the cost avoidance method. A State's request to have the requirement waived along with documentation of the cost effectiveness of the existing method must be submitted to the HCFA Regional Office within 60 days of the publication date of these final regulations. Administrative costs must be considered in a computation of the cost effectiveness of the State's method before we will waive the requirement for use of the cost avoidance method. A request to have the requirement waived also will not be approved for a State that does not have in place as of the publication date of these final regulations the method of paying the entire claim and then seeking reimbursement from any liable third party. The HCFA Regional Office will make a determination within 30 days of receipt of the request to have the requirement for use of the cost avoidance method waived.

Comment: Two commenters recommended that pharmacy claims involving third party liability be excluded from being paid under the cost avoidance method. They pointed out that these individual claims are usually small dollar amounts and, therefore, the cost of recovery will usually exceed the actual amount of the claim. They asserted that the alternate method of paying the claim and then seeking reimbursement was more practical and just as cost effective. One of these commenters also recommended exclusion of nursing home claims from the cost avoidance method requirement.

Response: As discussed earlier in this document under "Discussion and Provisions of the Regulations: Third Party Liability," under the provision that a State agency must use the cost avoidance method to pay claims involving probable third party liability, we will allow the State agency to use procedures for determining the likelihood of third party liability and subsequent payment that take into account the type of medical expense and type of insurance on a particular claim. These procedures apply to all claims involving third party liability, including pharmacy and nursing home claims. If the State determines that the use of the cost avoidance method is not appropriate for paying a claim using these criteria, the State would have to use the alternate method of paying the claim and then seeking reimbursement. However, the existing regulations at § 433.139(c) (now redesignated as § 433.139(f)) allow a State to terminate or suspend recovery efforts on claims for which it determines that the amount it reasonably expects to recover will be less than the cost of recovery. This section also allows a State to accumulate billings with respect to a particular liable third party (over a specified period of time and in a dollar amount chosen by the State) in making the decision whether to seek recovery of reimbursement. This accumulation of billings could apply to pharmacy claims.

Comment: One commenter who supported the overall third party liability changes suggested that the regulations, particularly § 433.139(c) (now redesignated as § 433.139(f)) relating to suspensions or termination of recovery action, could not be completely applied to liabilities arising in matters of tort or workers' compensation or, if applied, would be counterproductive to effective program operation. The commenter pointed out that relating the pure cost of recovery to the amount of recovery is logical for health insurance but does not apply to non-no fault personal injury claims, and that it is always "cost effective" to seek payment to the full extent in available settlement money. The commenter suggested revised language that would delineate suspension or termination procedures for third party liability arising in contractual situations (typically health insurance) or no-fault cases and those that arise out of tort or workers' compensation.

Response: Section 1902(a)(25) of the Act requires that in cases where legal third party liability is found to exist after medical assistance is furnished to a recipient, and where the amount the State can reasonably expect to recover exceeds the cost of recovery, the State must seek reimbursement to the extent of any liability. This section contains no exceptions, hence all third party resources, including workers' compensation and tort liability, must be pursued to the limit of liability.

Comment: Five commenters objected to the responsibility that the proposed regulations under § 433.139(b) places on a State to predetermine or estimate the amount the third party liability in situations where probable third party liability exists. Two commenters suggested that "probable liability" be clearly defined; otherwise Medicaid agencies will, in most cases, place the burden of this determination on the provider.

Response: The proposed regulations did not include a requirement to pay claims on an estimated basis when probable third party liability is known to exist. Instead, they would have required payment to the extent that the payment under the agency's payment schedule exceeds the expected amount of the third party liability. We have revised the regulations to clarify the procedure under which a State will establish the amount of third party liability. The regulations specify that, if the Medicaid agency has established the probable existence of third party liability (that is, during the eligibility, claims processing, medical support collection, or third party recovery process or any other third party related activity), the State agency must reject the claim and return it to the provider. We interpret probable liability to mean the presence of an indicator in the case record that suggests a possible third party resource that is or may be liable for a recipient's medical expenses. The establishment of third party liability takes place when the State agency receives confirmation from the provider or the third party resource indicating the

extent of liability available. The agency must then pay the claim only to the extent that payment allowed under the agency's payment schedule exceeds the payment of the third party payer.

Comment: Several commenters emphasized that, if the requirement for use of the cost avoidance method is maintained, reasonable timeframes for implementation be allowed.

Response: We realize that States that do not have a cost avoidance method in place will require time to develop the method or modify a current method to comply with these regulations. Therefore, we are applying the requirements to claims involving third party liability that are processed 180 days after the publication of the regulations. We feel that making these requirements effective 180 days after the date of publication provides ample time for States to come into compliance with the requirements. In addition, States have been given previous notice of the proposed requirements through the notice of proposed rulemaking published in the **Federal Register** on June 4, 1984.

Comment: Two commenters objected to the absence in the preamble to the proposed regulations of a quantification of savings as a result of use of the cost avoidance method. They also pointed out that the inflationary impact on providers was not properly addressed.

Response: In this preamble we have listed the areas in which savings should be increased through use of the cost avoidance method. We believe our logic is sound and accurate because the majority of States are now using cost avoidance to some extent. We recognize that there will be some instances in which the function of collecting from third party payers will be transferred to the provider of service and increase its administrative cost. However, in many cases the provider's billing of third party sources will simply be a substitution for its billing of Medicaid.

Assignment of Rights to Benefits

Comment: Two commenters suggested that while the proposed regulations allow a State to require, as a condition of eligibility, that each legally able applicant and recipient assign his rights to medical support or other third party resources to the Medicaid agencies, this requirement cannot be met in those States where Supplemental Security Income (SSI) eligibility is determined by the Social Security Administration (SSA). They pointed out that SSA has made no provisions for applying these regulations to SSI recipients. One of the two commenters suggested that the State has a right to require information concerning possible third party payers as a condition of eligibility and requested revision of the regulations to incorporate this requirement.

Response: The Deficit Reduction Act, which was enacted after we issued the proposed regulations, now requires applicants and recipients to assign their rights to medical support or other third party payments as a condition of Medicaid eligibility. (Sections 1902(a)(44) and 1912 of the Social Security Act.) We have made conforming changes in these final regulations. SSA is also making conforming references to regulations governing SSI eligibility determination under 20 CFR Part 416 and is developing administrative procedures to obtain the applicant's response and signature to assignment of rights during the eligibility process in States where SSA determines Medicaid eligibility.

Cooperative Agreements for Third Party Collections

Comment: Two commenters supported the proposal to delete the detailed requirements for cooperative agreements with title IV-D agencies and other agencies and officials under § 433.152. However, they pointed out that the deletion of the requirement for reimbursement by the State Medicaid agency to title IV-D agencies for services performed has created a discrepancy with child support regulations at 45 CFR Part 306 which require title IV-D agencies to be reimbursed by Medicaid for activities performed under optional cooperative agreements.

Response: We have revised the regulations to specify that the requirements of the Office of Child Support Enforcement under 45 CFR Part 306 are still applicable and to provide that cooperative agreements entered into with a title IV-D agency must specify that the title IV-D agency's reimbursement from the Medicaid agency will be limited to costs of services that are necessary for Medicaid collection and medical support activities that are in addition to those required to be performed by the title IV-D agency under the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378). Section 16 of Pub. L. 98-378 authorizes the Secretary to issue regulations to require title IV-D agencies to petition to include medical support as part of child support orders and to provide for improved information exchange between State IV-D agencies and State Medicaid agencies regarding the availability of health insurance coverage, with reimbursement from the Office of Child Support Enforcement.

We also have revised the regulations to emphasize that the terms of specific cooperative agreements may be developed at the discretion of each agency to account for individual circumstances.

Rates of FFP for Compensation and Training of Skilled Professional Medical Personnel and Directly Supporting Staff

Comment: Ten commenters objected to the more restrictive definition of supporting staff. These commenters recommended that the definition be broadened to include the category of "subprofessional staff" as defined and allowed in current regulations under § 432.2. In addition, these commenters pointed out that the commonly used definition of "clerical personnel" includes copying, file, and records clerks as well as the secretarial and stenographic personnel specified in the proposed regulations. The commenters recommended revising the definition to include all of these types of clerical personnel.

Response: The Senate Finance Committee report that accompanied the 1965 Social Security Amendments, cited earlier, clearly defines "supporting staff" as the "clerical staff directly associated with the professional staff." The legislative intent, as reflected in this report, does not indicate that the costs of other "subprofessional staff" not performing clerical functions are to be eligible for 75 percent FFP as "supporting staff." Therefore, we are unable to accept the commenters' recommendation to broaden the definition of supporting staff to include other nonclerical subprofessional personnel. However, we agree with the commenters that our interpretation of the term "clerical staff" to mean only secretarial and stenographic personnel was unduly restrictive as to the common use and understanding of the term. Therefore, in the final regulations we have broadened our definition of supporting staff to mean secretarial, stenographic, and copying personnel, and file and records clerks that directly support the responsibilities of skilled professional medical personnel.

Comment: Five commenters objected to the requirement that the supporting staff must be directly supervised by the skilled professional medical personnel in order to qualify for 75 percent funding. The commenters suggested that this requirement did not reflect legislative intent and that there should be no requirement that the supporting staff be directly supervised by or

immediately responsible to the skilled professional medical personnel.

Response: The legislative history and the wording in the statute do not support the commenters' objections. The Senate Report (p. 83) refers to the supporting staff for the skilled professional medical personnel as "directly supporting such personnel" and "directly associated with the professional staff." Also, section 1903(a)(2) refers to "staff directly supporting such personnel." The legislative history and the statute consistently indicated that a *direct* relationship must exist between the supporting staff and the skilled professional medical personnel in order for FFP to be allowable at 75 percent. This direct relationship is best evidenced by the supporting staff being directly supervised (immediate first-level supervision) by the skilled professional medical personnel. We note that is the same interpretation we have been applying under the current regulations.

To accept the commenters' recommendation would be contrary to the clear legislative intent of direct support and could result in a situation where a skilled professional medical personnel position headed the Medicaid agency and the entire supporting staff in that agency were claimed at 75 percent FFP. There is no indication that Congress intended to reimburse the entire cadre of supporting staff in the Medicaid agency at 75 percent FFP.

In order to ensure that there will be no misinterpretation, we have specified in this preamble that "directly supervise" means "immediate first-level supervision," and we have clarified in the regulation text that the skilled professional medical personnel must directly supervise the supporting staff *and* the performance of the supporting staff's work. In addition, we have consistently referred to supporting staff as "directly supporting staff" throughout the preamble and the regulation to make the language conform to the statute.

Comment: Nineteen commenters indicated that the regulations would have a negative financial impact on the States, as States would be required to provide additional State funds to make up the loss of Federal funds for those staff currently being funded at 75 percent FFP that would be funded at 50 percent under the proposed regulations. The commenters also indicated that if the States were unable to provide the additional funds, some State staff reductions would result.

Response: We agree with the commenters that the regulations may result in the need for additional State funds for those positions that no longer qualify for 75 percent FFP as skilled professional medical personnel or directly supporting staff. However, the regulations clearly reflect congressional and statutory intent as to what personnel qualify for 75 percent funding and there is no other authority to provide 75 percent funding for these personnel if they do not qualify under these regulations.

It is difficult for us to assess whether or not actual State staff reductions will result from the implementation of these regulations since State staffing and claiming practices and State budgetary constraints vary from State to State. Some States may restructure their staffing patterns to accommodate the changes in these regulations but we do not know what specific State staffing decisions will actually be made.

Comment: Two commenters indicated that the HCFA regional offices were already "retroactively" applying the proposed regulations to current financial management reviews and were reducing funding to the States accordingly.

Response: The application of the proposed regulations before they are duly promulgated as final regulations is improper. However, we know of no instances where disallowances or financial adjustments have been taken against any State using policy changes included in the proposed regulations. Any disallowances issued before the effective date of these final regulations reflect law, regulations, and policy then in effect and States are provided opportunity for an appropriate appeal of a disallowance to the Departmental Grant Appeals Board.

Comment: One commenter objected to the requirement in the proposed regulations that an employer-employee relationship exist between the Medicaid agency and the skilled professional medical personnel. The commenter suggested that individuals under consultant contracts for administrative services automatically be considered State employees for FFP purposes and that such contracts not be reviewed on a case-by-case basis.

Response: We disagree with the commenter since the legislative history of section 1903(a)(2) of the Act clearly requires that 75 Percent FFP is available only for the costs of specific personnel and staff that are *employed* by the Medicaid agency. If the Medicaid agency claims 75 percent FFP for skilled professional medical personnel working for the State agency under contract, it must document the existence of an employer-employee relationship between the Medicaid agency and such personnel.

Comment: Commenters recommended that the regulations be revised to provide that State Medicaid Directors automatically qualify in all instances as skilled professional medical personnel.

Response: We disagree with the commenters' recommendation because there is no support in the statute or in the legislative history to automatically allow *any* personnel, including State Medicaid Directors, to qualify as skilled professional medical personnel. All personnel of State Medicaid agencies, including State Medical Directors, must satisfy the applicable criteria specified in the regulations to establish whether they qualify as skilled professional medical personnel or directly supporting staff before being claimed at 75 percent FFP.

Comment: Twenty-three commenters objected to the fact that the regulations would not allow States to count an individual's on-the-job training and work experience as qualification for the skilled professional medical personnel designation. They believe that this training and experience may be more relevant and important in doing a quality job than the expertise gained through professional education and training before working in a skilled professional medical personnel function. In addition, the commenters recommended that we clarify our meaning of "professional education and training" to provide for 2-year programs that lead to a certificate.

Response: We do not agree entirely with the commenters' statements. We believe that it was clearly the original intent of the skilled professional medical personnel provision in the statute that the enhanced funding for these personnel was to provide an incentive to States to hire personnel who had professional education and training in a *medical* field *before* being claimed at 75 percent FFP. These personnel would then bring this medical expertise to bear on the development and administration of the Medicaid program.

We can find nothing in the original legislation history of this issue that suggests that the Congress intended to encourage the States to hire personnel with various backgrounds who would somehow gain medical expertise on the job and become skilled professional medical personnel. Also, there is no indication that Congress intended to count an individual's on-the-job training and work experience gained in some other job outside the State agency as qualification for the skilled professional medical personnel designation. Therefore, these regulations require that an individual have professional

education and training in a medical field before being claimed as skilled professional medical personnel. However, we have revised the regulations to provide that "professional education and training" means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession."

Comment: Six commenters emphasized that the regulations would have a significant negative impact on the EPSDT program by reducing the level of funding provided for EPSDT personnel and that this action indicates an increasing lack of support for the EPSDT program.

Response: We do not intend for these regulations to have a negative impact on the EPSDT program or any other Medicaid program area, and we want to emphasize our continued strong support of and commitment to the EPSDT program. However, the statute and its legislative history do not automatically provide for enhanced funding for personnel working in special Medicaid program areas such as EPSDT. We believe that these personnel must qualify as skilled professional medical personnel or directly supporting staff as would any other personnel in the Medicaid agency. We believe that the regulations will have minimal effect, if any, on the health-related professionals involved in the planning, implementation, and supervision of the EPDST program. Additionally, we believe that any loss of revenue associated with EPSDT personnel costs that will no longer be matched at 75 percent may be offset by the increased flexibility States have in the EPSDT program under the new EPSDT regulations published on October 31, 1984 (49 FR 43654).

Comment: One commenter recommended that 75 percent funding be available for skilled professional medical personnel used in any position within the Medicaid agency, even if that position does not require medical knowledge and skills. The commenter reasoned that the skilled professional medical personnel can use their medical background in a myriad of situations within the Medicaid agency.

Response: We do not believe that the statute and legislative history support providing 75 percent funding for skilled professional medical personnel employed in positions that do not require the use of professional medical knowledge and skills. Clearly, it was not the intent of Congress to encourage States, for example, to place doctors in charge of accounting units or nurses in charge of computer facilities. Professional medical knowledge is needed to shape the medical aspects of the program and it is the intent of the skilled professional medical personnel funding to encourage States to place such professional medical personnel in jobs where their medical background and expertise would result in Medicaid programs that are medically sound and administratively efficient.

Comment: Thirteen commenters indicated that we were not following congressional intent because we eliminated specific reference to various types of skilled professional medical personnel (e.g., medical administrators, medical social workers) in the regulations. The commenters believe that these types of personnel should be explicitly defined as skilled professional medical personnel in the regulations.

Response: We have removed some references to specific job titles (e.g., medical administrators, medical social workers) in the definition of skilled professional medical personnel because of the varying and sometimes contradictory use of these titles among the States. In some cases, personnel who did not have professional education and training in the field of medical care or appropriate medical practice were simply given a medically-related job title. This resulted in inconsistent and differing claiming practices around the country. We believe that the congressional intent is to provide 75 percent FFP for personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in positions that have duties and responsibilities that require professional medical knowledge and skills without regard to specific job or position title. Therefore, we have minimized reference to specific job titles in the regulations while at the same time providing for "other specialized personnel" who have the required education and training. This will enable us to review the qualifications of each individual on a case-by-case basis without regard to job title. The revision will more closely conform to the original congressional intent and will facilitate more consistent policy application by HCFA and claiming practices among the States.

Sources of State Financial Participation

Comments: Thirteen commenters supported the proposal to permit public and private donations to be used as a State's share of financial participation in any Medicaid program expenditures and not limit their use to training expenditures. One of these commenters pointed out a typographical error in § 433.45(b)(4) (relating to use by Medicaid of donor's facility)—the word "violation" should be "volition".

Response: We have corrected the typographical error in § 433.45(b)(4).

Comment: One commenter suggested that the proposed change as written would preclude a for-profit private organization from participating in Medicaid if it donates funds to the Medicaid agency because a donation could result in the facility not being allowed to treat Medicaid recipients.

Response: Section 433.45(b) of the regulations does not prohibit a for-profit facility from participating in Medicaid. It serves only to define what non-State funds may be considered part of the State's share of financial participation. Our intent is to preclude "kickback situations" that could result from private donations made by proprietary organizations in return for Medicaid business.

Comment: One commenter expressed concern that opportunities for abuse will result if we allow private and public enterprises to make contributions unconditionally to the Medicaid program. The commenter believed that gifts to the State should be restricted to gifts to the whole State and to the State General funds and that gifts to the Medical program should be prohibited.

Response: Donated funds will come under the administrative control of the Medicaid agency. The regulations clearly prohibit the reverting of private funds to the donor's facility or use unless the donor is a nonprofit organization and the Medicaid agency, of its own volition, decides to use the donor's facility. We will be able to identify any major violations of this provision through the HCFA financial management review. The regulations are intended to permit States more flexibility in administering their Medicaid program. Although public and private donations can be used as a State's share of financial participation, we are not mandating the States do this. If a State wishes to continue to use donated funds for training purposes only, this regulation also allows the flexibility to do so.

Waiver of Notice of Proposed Rulemaking

We have not issued a notice of proposed rulemaking on the provisions in these regulations that incorporate the statutory requirement for assignment of medical support payments and other third party payments and cooperation in establishing paternity and obtaining support as a condition of eligibility and the requirement for cooperative agreements between the Medicaid

agency and other agencies for obtaining medical support. These requirements, which were optional provisions under previous legislation, are mandated under the Deficit Reduction Act of 1984. We do not believe that it would be in the best interest of the public of delay these regulations to obtain public comment, as these provisions are mandated by statute and there is little or no leeway in applying the requirements. Revised procedures for implementing some of the previously optional provisions were addressed in the June 1984 NPRM. Comments on these optional provisions have been responded to in these final regulations and these responses are equally applicable even though the optional provisions were made mandatory after issuance of the NPRM. Therefore, we find that there is good cause to waive public rulemaking procedures and issue these requirements as final regulations.

Regulatory Impact Statement

Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major regulations—that is, those that will have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions, or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic or export markets. We have determined that, for the reasons stated below, these regulations do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Third Party Liability

As noted earlier, to improve the administration of the Medicaid program we are broadening the scope of services for which a State must collect from third parties the cost of medical assistance furnished to Medicaid recipients. We also are revising the methods of paying claims involving third party liability, and making conforming changes to incorporate a statutory provision that requires the assignment of medical support rights and other third party payments and cooperation in establishing paternity and obtaining support as a condition of eligibility for Medicaid.

We anticipate that implementing these third party liability provisions will increase our ability to recover Medicaid expenditures. We also anticipate that the impact of these regulations will be enhanced through the interactive effects of other third party liability initiatives. We are unable to develop a precise actuarial estimate for these third party liability provisions. We project that these regulations with other third party initiatives will allow recovery of 80 percent of the amounts that are currently uncollected. We believe that between 1.0 percent and 2.5 percent of current Medicaid expenditures could be recovered through better collection practices.

We anticipate that these regulations will account for 25 percent of the combined effects of these regulations and other third party liability initiatives. We have developed the following projection of low and high values of potential Federal savings:

	1986	1987	1988	1989	1990
Low (in millions) [1]	$25	$25	$50	$50	$75
High (in million [1]	50	75	150	150	175

[1] Rounded to nearest $25 million.

Each State's savings, while not readily estimable, would bear the same relationship to the Federal savings that their current Medicaid expenditures bear to total Federal expenditures. Actual State savings will also depend directly on the State's success in recovering third party liability.

FFP For Compensation and Training of Skilled Professional Medical Personnel

We also expect the changes in the definition of skilled professional medical personnel and directly supporting staff to result in program savings on the Federal level. Implementation of these changes will reduce the rate of FFP from 75 percent to 50 percent for many States' skilled professional medical personnel claims, resulting in some additional program expense for affected States. We estimate a program savings of at least $15.8 million in the first full fiscal year that these regulations are effective. These savings will be generated by disallowance of inappropriate State claims for enhanced Federal matching and an expected reduction in the number of personnel and staff for whom 75 percent matching is claimed and allowed.

Specifically, we estimate: (1) Savings of $11 million resulting from the elimination of 75 percent enhanced funding for EPSDT subprofessionals who do not qualify as directly supporting staff; (2) savings of $4.8 million by eliminating the "subprofessional" category of supporting staff and by defining directly supporting staff as only secretarial, stenographic, and copying personnel and file and records clerks that provide direct support to the skilled professional medical personnel; and (3) an inestimable savings generated by not paying 75 percent enhanced funding for skilled professional medical personnel who do not have the required professional education and training in a medical field related to their position in the Medicaid program. These personnel costs would be matched at 50 percent. We anticipate a possible increase in these savings if States no longer claim these staff at 75 percent FFP. However, we cannot provide savings estimates because we do not know what specific decisions States will make.

Sources of State's Share of Financial Participation

We expect little change from current levels of donations to State Medicaid programs as a result of these provisions. To the extent that donations increase, the individual State programs will benefit but we believe that the extent of the incremental increase will not be great enough to benefit affected recipient populations.

Regulatory Flexibility Act of 1980 (Pub. L. 96–354)

The Regulatory Flexibility Act requires us to prepare and publish a regulatory flexibility analysis (RFA) for any regulation that will have a significant impact on a substantial number of small entities. A small entity is a small business, a nonprofit enterprise, or a government jurisdiction (such as a county or township) with a population of less than 50,000. The purpose of the analysis would be to anticiapte the impact and to seek alternatives that would have a less significant effect.

We do not expect the changes in these regulations to affect a substantial number of small entities. We expect large major health insurors and State Medicaid agencies, which are not considered small entities, to be the entities primarily affected. As mentioned above in the discussion of Executive Order 12291, the changes in skilled professional medical personnel will result in a shift to States of a portion of administrative costs that have previously been born by the Federal government.

We also emphasize that the rules on third party liability should have little impact on Medicaid providers. The changes to third party liability rules do not make recipients any more liable to pay for services furnished under a State

plan than they have been in the past. The revised claims payment system will require providers to file claims with third party payers, but this system has proved workable in the States that now use it. Because only 10 to 15 percent of all Medicaid recipients have health insurance, we believe that providers can accommodate the new claims filing requirement with minimal disruption of billing procedures and no reduction in services furnished to Medicaid recipients.

Therefore, we have determined and the Secretary certifies under 5 U.S.C. 605(b), that these final regulations will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act of 1980 (Pub. L. 96-511)

Sections 432.50(d)(2), 433.139, and 433.145 contain information collection requirements that are subject to approval of the Office of Management and Budget (OMB) under the Paperwork Reduction Act. We have submitted a copy of these requirements to OMB for its review and approval. When OMB approval is obtained, we will publish an appropriate notice in the **Federal Register.**

List of Subjects

42 CFR Part 432

Grant-in-Aid program—health, Health Care Financing Administration, Medicaid, Subprofessionals, Training programs, Volunteers.

42 CFR Part 433

Administrative practice and procedure, Assignment of rights, Claims, Contracts (agreements), Cost allocation, Federal financial participation, Federal matching provision, Grant-in-Aid program—health, Mechanized claims processing and information retrieval systems, Medicaid, State fiscal administration, Third party liability.

42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (agreements—State plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

42 CFR Chapter IV is amended as set forth below:

PART 432—STATE PERSONNEL ADMINISTRATION

A. Part 432 is amended as follows:

1. The authority citation for Part 432 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. The table of contents for Subpart C is amended by adding a new § 432.45 and removing § 432.60 to read as follows:

Subpart C—Staffing and Training Expenditures

432.45 Applicability of provisions in subpart.

* * * * *

432.60 [Reserved]

3. Section 432.2 is amended by adding an introductory phase and revising the definition of "skilled professional medical personnel" and "staff of other public agencies", removing the definition of "supporting staff", and adding a new definition of "directly supporting staff" in alphabetical order to read as follows:

§ 432.2 Definitions.

As used in this part—

* * * * *

"Directly supporting staff" means secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that directly support the responsibilities of skilled professional medical personnel, who are directly supervised by the skilled professional medical personnel, and who are in an employer-employee relationship with the Medicaid agency.

* * * * *

"Skilled professional medical personnel" means physicians, dentists, nurses, and other specialized personnel who have professional education and training in the field of medical care or appropriate medical practice and who are in an employer-employee relationship with the Medicaid agency. It does not include other nonmedical health professionals such as public administrators, medical analysts, lobbyists, senior managers or administrators of public assistance programs or the Medicaid program.

"*Staff of other public agencis*" means skilled professional medical personnel and directly supporting staff who are employed in State or local agencies other than the Medicaid agency who perform duties that directly relate to the administration of the Medicaid program.

* * * * *

4. A new § 432.45 is added to Subpart C to read as follows:

§ 432.45 Applicablity of provision in subpart.

The rates of FFP specified in this Subpart C do not apply to State personnel who conduct survey activities and certify facilities for participation in Medicaid, as provided for under section 1902(a)(3)(B) of the Act.

5. Section 432.50 is amended by revising paragraphs (b)(1) and (c) and by adding paragraph (d) and paragraph (e) to read as follows:

§ 432.50 FFP: Staffing and training costs.

* * * * *

(b) *Rates of FFP.* (1) For skilled professional medical personnel and directly supporting staff of the Medicaid agency or of other public agencies (as defined in § 432.2), the rate is 75 percent.

* * * * *

(c) *Application of rates.*

(1) FFP is prorated for staff time that is split among functions reimbursed at different rates.

(2) Rates of FFP in excess of 50 percent apply only to those portions of the individual's working time that are spent carrying out duties in the specified areas for which the higher rate is authorized.

(3) The allocation of personnel and staff costs must be based on either the actual percentages of time spent carrying out duties in the specified areas, or another methodology approved by HCFA.

(d) *Other limitations for FFP rate for skilled professional medical personnel and directly supporting staff.*

(1) *Medicaid agency personnel and staff.* The rate of 75 percent FFP is available for skilled professional medical personnel and directly supporting staff of the Medicaid agency if the following criteria, as applicable, are met:

(i) The expenditures are for activities that are directly related to the administration of the Medicaid program, and as such do not include expenditures for medical assistance;

(ii) The skilled professional medical personnel have professional education and training in the field of medical care or appropriate medical practice. "Professional education and training" means the completion of a 2-year or longer program leading to an academic degree or certificate in a medically related profession. This is demonstrated

by possession of a medical license, certificate, or other document issued by a recognized National or State medical licensure or certifying organization or a degree in a medical field issued by a college or university certified by a professional medical organization. Experience in the administration, direction, or implementation of the Medicaid program is not considered the equivalent of professional training in a field of medical care.

(iii) The skilled professional medical personnel are in positions that have duties and responsibilities that require those professional medical knowledge and skills.

(iv) A State-documented employer-employee relationship exists between the Medicaid agency and the skilled professional medical personnel and directly supporting staff; and

(v) The directly supporting staff are secretarial, stenographic, and copying personnel and file and records clerks who provide clerical services that are directly necessary for the completion of the professional medical responsibilities and functions of the skilled professional medical staff. The skilled professional medical staff must directly supervise the supporting staff and the performance of the supporting staff's work.

(2) *Staff of other public agencies.* The rate of 75 percent FFP is available for staff of other public agencies if the requirements specified in paragraph (d)(1) of this section are met and the public agency has a written agreement with the Medicaid agency to verify that these requirements are met.

(e) *Limitations on FFP rates for staff in mechanized claims processing and information retrieval systems.* The special matching rates for persons working on mechanized claims processing and information retrieval systems (paragraphs (b)(2) and (3) of this section) are applicable only if the design, development and installation, or the operation, have been approved by the Administrator in accordance with Part 433, Subpart C, of this subchapter.

§ 432.60 [Removed and Reserved]

6. Section 432.60 is removed and reserved. (Its content is revised and redesignated as a new § 433.45 under Part 433.)

PART 433—STATE FISCAL ADMINISTRATION

B. Part 433 is amended as follows:

1. The authority citation for Part 433 is revised to read as follows:

Authority: Secs. 1102, 1902(a)(4), 1902(a)(25), 1902(a)(45), 1903(a)(3), 1903(d)(25), 1903(d)(5), 1903(o), 1903(p), 1903(r), and 1912 of the Social Security Act; 42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(25), 1396(a)(45), 1396b(a)(3), 1396b(d)(2), 1396b(d)(5),1396(o), 1396(p), 1396b(r) and 1396k, unless otherwise noted.

2. The table of contents is amended by adding a new § 433.45 to Subpart B, revising the titles of §§ 433.137, 433.145, and 433.151, and removing §433.149 under Subpart D to read as follows:

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Subpart B—General Administrative Requirements

* * * * *

Sec.
433.45 Sources of State share of financial participation.

* * * * *

Subpart D—Third Party Liability

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433.137 State plan requirements.

* * * * *

433.145 Assignment of rights to benefits—State plan requirements.

* * * * *

433.149 [Removed and reserved]

* * * * *

433.151 Cooperative agreements and incentive payments—State plan requirements.

* * * * *

3. Section 433.15 is amended by revising paragraph (b) (5) to read as follows:

§ 433.15 Rates of FFP for administration.

* * * * *

(b) *Activities and rates.*

* * * * *

(5) Compensation and training of skilled professional medical personnel and staff directly supporting those personnel if the criteria specified in § 432.50 (c) and (d) are met: 75 percent. (Section 1903(a)(2); 42 CFR 432.50(b)(1).)

* * * * *

4. A new § 433.45 is added to read as follows:

§ 433.45 Sources of State share of financial participation.

(a) *Public funds as the State's share.* (1) Public funds may be considered as the State's share in claiming FFP if they meet the conditions specified in paragraphs (a)(2) and (3) of this section.

(2) The public funds are appropriated directly to the State or local Medicaid agency, or transferred from other public agencies (including Indian tribes) to the State or local agency and under its administrative control, or certified by the contributing public agency as representing expenditures eligible for FFP under this section.

(3) The public funds are not Federal funds, or are Federal funds authorized by Federal law to be used to match other Federal funds.

(b) *Private donated funds as the State's share.* (1) Funds donated from private sources may be considered as the State's share in claiming FFP only if they meet the conditions specified in paragraphs (b)(2) and (3) of this section.

(2) The private funds are transferred to the State or local Medicaid agency and are under its administrative control.

(3) The private funds do not revert to the donor's facility or use unless the donor is a non-profit organization, and the Medicaid agency, of its own volition, decides to use the donor's facility.

(5) Section 433.135 is revised to read as follows:

§ 433.135 Basis and purpose.

This subpart implements sections 1902(a)(25), 1902(a)(45), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Act by setting forth State plan requirements concerning—

(a) The legal liability of third parties to pay for services provided under the plan;

(b) Assignment to the State of an individual's rights to third party payments; and

(c) Cooperative agreements between the Medicaid agency and other entities for obtaining third party payments.

6. Section 433.136 is amended by revising the definitions of "Private insurer" and "Third party" to read as follows:

§ 433.136 Definitions.

For purposes of this subpart—

"Private insurer" means:

(1) Any commercial insurance company offering health or casualty insurance to individuals or groups (including both experience-rated insurance contracts and indemnity contracts);

(2) Any profit or nonprofit prepaid plan offering either medical services or full or partial payment for services included in the State plan; and

(3) Any organization administering health or casualty insurance plans for professional associations, unions, fraternal groups, employer-employee benefit plans, and any similar organization offering these payments or services, including self-insured and self-funded plans.

"Third party" means any individual entity or program that is or may be liable to pay all or part of the expenditures for medical assistance furnished under a State plan.

* * * * *

7 Section 433.137 is revised to read as follows:

§ 433.137 State plan requirements.

(a) A State plan must provide that the requirements of §§ 433.138 and 433.139 are met for determining legal liability of third parties to pay for services under the plan and for payment of claims involving third parties.

(b) A State plan must provide that, for medical assistance furnished on or after October 1, 1984—

(1) The requirements of §§ 433.145 through 433.148 are met for assignment of rights to benefits and cooperation with the agency in obtaining medical support or payments; and

(2) The requirements of §§ 433.151 through 433.154 are met for cooperative agreements and incentive payments for third party collections.

8. Section 433.139 is revised to read as follows:

§ 433.139 Payment of claims.

(a) *Basic provisions.* (1) For claims involving third party liability that are processed on or after May 12, 1986, the agency must use the procedures specified in paragraphs (b) through (f) of this section.

(2) The agency must submit documentation of the methods (e.g., cost avoidance, pay and recover later) it uses for payment of claims involving third party liability to the HCFA Regional Office.

(b) *Probable liability is established at the time claim is filed.* Unless the agency has received approval to use an alternative method of payment as specified under paragraph (b)(2) of this section, the agency must pay claims involving probable third party liability as follows:

(1) If the agency has established the probable existence of third party liability at the time the claim is filed, the agency must reject the claim and return it to the provider for a determination of the amount of liability. The establishment of third party liability takes place when the agency receives confirmation from the provider or a third party resource indicating the extent of third party liability. When the amount of liability is determined, the agency must then pay the claim to the extent that payment allowed under the agency's payment schedule exceeds the amount of the third party's payment.

(2) The agency may pay the full amount allowed under the agency's payment schedule for the claim and then seek reimbursement from any liable third party to the limit of legal liability if it has obtained approval of a waiver of the requirement under paragraph (b)(1) of this section. The waiver must be in accordance with the provisions of paragraph (e) of this section.

(c) *Probable liability is not established or benefits are not available at the time claim is filed.* If the probable existence of third party liability cannot be established or third party benefits are not available to pay the recipient's medical expenses at the time the claim is filed, the agency must pay the full amount allowed under the agency's payment schedule.

(d) *Recovery of reimbursement.* If the agency learns of the existence of a liable third party, or benefits become available after a claim is paid, the agency must seek recovery of reimbursement from the third party to the limit of legal liability within 60 days after the end of the month in which payment is made or 60 days after the end of the month it learns of the existence of the liable third party, whichever is earlier, unless it determines that recovery would not be cost effective in accordance with paragraph (f) of this section.

(e) *Waiver of required use of cost avoidance method.* (1) The requirement to use the claims payment method specified under paragraph (b)(1) of this section may be waived if—

(i) The agency is using the method of paying the entire claim and then seeking reimbursement from any liable third party as of November 12, 1985;

(ii) The agency submits adequate documentation that its method is as cost effective as the method required under paragraph (b)(1) of this section to the HCFA Regional Office on or before January 13, 1986 and requests approval of its use (Administrative costs must be considered in the computation of the cost effectiveness of the State's alternative method); and

(iii) The HCFA Regional Office approves the State's request for a waiver of the requirement.

(2) The HCFA Regional Office will review a State's request to have the requirement under paragraph (b)(1) of this section waived and notify the State of its determination within 30 days of receipt of a request. The Regional Office will request additional information from the State, if necessary.

(3) The HCFA Regional Office will grant the waiver for an indefinite period unless it specifies otherwise in the approval notice to the State. A State that is granted a waiver must notify the Regional Office of any event that occurs that changes the cost effectiveness of the approved alternative method. The Regional Office may rescind the waiver at any time that the State's method is no longer as cost effective as the method required under paragraph (b)(1) of this section. If the waiver request is denied or the waiver is rescinded, the State has 6 months from the date of the denial or rescission notice to implement the method required under paragraph (b)(1) of this section.

(f) *Suspension or termination of recovery of reimbursement.* (1) An agency must seek reimbursement from a liable third party on all claims for which it determines that the amount it reasonably expects to recovery will be greater than the cost of recovery. Recovery efforts may be suspended or terminated only if they are not cost effective.

(2) The State plan must specify the threshold amount or other guideline that the agency uses in determining whether to seek recovery of reimbursement from a liable third party, or describe the process by which the agency determines that seeking recovery of reimbursement would not be cost effective.

(3) The State plan must also specify the dollar amount or period of time for which it will accumulate billings with respect to a particular liable third party in making the decision whether to seek recovery of reimbursement.

9. Section 433.145 is revised to read as follows:

§ 433.145 Assignment of rights to benefits—State plan requirements.

For medical assistance furnished on or after October 1, 1984—

(a) A State plan must provide that, as a condition of eligibility, each legally able applicant and recipient must assign his rights to medical support or other third party payments to the Medicaid agency and cooperate with the agency in obtaining medical support payments.

(b) A State plan must provide that the requirements for assignments and cooperation in establishing paternity and obtaining support under §§ 433.146 through 433.148 are met.

(c) A State plan must provide that the assignment of rights to benefits obtained from an applicant or recipient is effective only for services that are reimbursed by Medicaid.

§ 433.149 [Removed and reserved]

10. Section 433.149 is removed and reserved.

11. Section 433.151 is revised to read as follows:

§ 433.151 Cooperative agreements and incentive payments—State plan requirements.

For medical assistance furnished on or after October 1, 1984—

(a) A State plan must provide for entering into written cooperative

agreements for enforcement of rights to and collection of third party benefits with at least one of the following entities: The State title IV-D agency, any appropriate agency of the State, and appropriate courts and law enforcement officials. The agreements must be in accordance with the provisions of § 433.152.

(b) A State plan must provide that the requirements for making incentive payments and for distributing third party collections specified in §§ 433.153 and 433.154 are met.

12. Section 433.152 is revised to read as follows:

§ 433.152 Requirements for cooperative agreements for third party collections.

(a) Except as specified in paragraph (b) of this section, the State agency may develop the specific terms of cooperative agreements with other agencies as it determines appropriate for individual circumstances.

(b) Agreements with title IV-D agencies must specify that the Medicaid agency will—

(1) Meet the requirements of the Office of Child Support Enforcement for cooperative agreements under 45 CFR Part 306; and

(2) Provide reimbursement to the IV-D agency only for those child support services performed that are not reimbursable by the Office of Child Support Enforcement under title IV-D of the Act and that are necessary for the collection of amounts for the Medicaid program.

PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, AND THE NORTHERN MARIANA ISLANDS

C. Part 435, Subpart G, is amended as follows:

1. The authority citation for Part 435 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. Section 435.604 is revised to read as follows:

§ 435.604 Assignment of rights to benefits.

For medical assistance furnished on or after October 1, 1984—

(a) As a condition of eligibility, the agency must require legally able applicants and recipients to assign rights to medical support or other third party payments to the Medicaid agency and to cooperate with the agency in obtaining medical support or payments. (Part 433, Subpart D, contains specific requirements for these assignments.)

(b) The requirements for assignment of rights must be applied uniformly for all groups covered under the plan.

PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

D. Part 436, Subpart G is amended as follows:

1. The authority citation for Part 436 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

2. Section 436.604 is revised to read as follows:

§ 436.604 Assignment of rights to benefits.

For medical assistance furnished on or after October 1, 1984—

(a) As a condition of eligibility, the agency must require legally able applicants and recipients to assign rights to medical support and other third party payments to the Medicaid agency and to cooperate with the agency in obtaining medical support or payments. (Part 433, Subpart D, contains specific requirements for these assignments.)

(b) The requirements for assignment of rights must be applied uniformly for all groups covered under the plan.

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program)

Dated: March 5, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: August 2, 1985.

Margaret M. Heckler,

Secretary.

[FR Doc. 85-26603 Filed 11-8-85; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Ch. V

[Docket No. T84-01; Notice 8]

Final Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Publication of final theft data.

SUMMARY: These data reflect the passenger motor vehicle thefts in 1983 and 1984 that have been provided to this agency by the National Crime Information Center (NCIC). These data have been used by the agency to determine the theft rates for the 130 existing passenger motor vehicle lines manufactured in 1983 and 1984, and to determine the median theft rate for those 130 lines. The lines listed from number 1 to number 65, inclusive, had a theft rate that exceeded the medium theft rate, and will be subject to selection for coverage under the motor vehicle theft prevention standard.

FOR FURTHER INFORMATION CONTACT: Mr. Brian McLaughlin, Office of Market Incentives, NHTSA, Room 5313, 400 Seventh Street, SW., Washington, DC 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION:

Background

Title VI of the Motor Vehicle Information and Cost Savings Act (the Cost Savings Act; 15 U.S.C. 2021 *et seq.*) requires NHTSA to promulgate a vehicle theft prevention standard applicable to high theft car lines. Section 603(a)(1) of the Cost Savings Act (15 U.S.C. 2023(a)(1)) specifies that three types of car lines are high theft lines within the meaning of Title VI. These three types are:

(1) Existing lines that had a theft rate exceeding the median theft rate in 1983 and 1984;

(2) New lines that are likely to have a theft rate exceeding that median theft rate; and

(3) Lines with theft rates below the median theft rate, but which have a majority of major parts interchangeable with lines whose theft rate exceeded or is likely to exceed the median theft rate.

Section 603(b) of the Cost Savings Act explains how the agency is to determine whether existing lines had a theft rate that exceeded the median theft rate in 1983 and 1984. Section 603(b)(3) directs NHTSA to "obtain from the most reliable source or sources accurate and timely theft and recovery data and publish such data for review and comment. To the greatest extent possible, the [NHTSA] shall utilize theft data reported by Federal, State, or local police. After such publication and opportunity for comment, the [NHTSA] shall utilize the theft data to determine the median theft rate under this subsection."

In accordance with the statutory directive, NHTSA published a notice seeking comments on theft data the agency had obtained from the NCIC and the National Automobile Theft Bureau (NATB); 50 FR 18708, May 2, 1985. That notice stated the agency's tentative decision to use the NCIC data to determine the median theft rate for 1983 and 1984 and the theft rates for the 130 existing lines. The agency explained

that the NCIC system is a government system which receives vehicle theft information from nearly 23,000 police agencies throughout the United States. Conversely, the NATB system is operated by a private agency supported by approximately 600 property-casualty insurance companies. Most of the NATB data are obtained from the individual insurance companies.

On August 15, 1985, the agency published a supplemental notice seeking comment on updated theft data; 50 FR 32871. This notice sought comments on updated NCIC theft data, which now included some thefts reported to the NCIC which had been inadvertently omitted from the previous notice. This notice also sought comment on methods of minimizing the possibility of multiple countings of the same vehicle theft. This problem could arise if a law enforcement agency computer operator followed incorrect data entry procedures after getting further information about a vehicle reported as stolen. Operators are supposed to revise an existing theft entry to reflect new or additional data on the theft, but they sometimes cancel the original theft entry and enter a new theft report. The result of this practice is that one actual theft reported to NCIC may be entered into the system more than once. To address this situation, the notice proposed to exclude all duplicate vehicle identification numbers (VIN's) of stolen vehicles reported within seven calendar days of each other.

The agency has considered each of the comments received in response to these two notices, and the most significant points raised by the commenters are addressed below.

Source of Theft Data

For the purposes of Title VI, NHTSA has decided that the NCIC data are the most timely and accurate theft data, and these data will be used. The use of these data accommodate the statutory preference for the use of government data. Further, the NCIC data includes thefts of self-insured and uninsured vehicles, which are not reported to NATB.

All commenters except Ferrari supported the agency's tentative decision to use the NCIC data. Ferrari commented that "NATB data is more representative because this data comes from the insurance companies who are more interested in stolen vehicles because they are the ones who insure them and must pay for them." NHTSA strongly disagrees with Ferrari's statement that insurance companies are more interested in accurate theft reporting than are police organizations. Moreover, since the NCIC data include thefts of self insured and uninsured vehicles not included in the NATB data, the agency is convinced that the NCIC data give a more complete representation of vehicle thefts throughout the country.

American Motors Corporation (AMC) commented that it believed the NCIC data had a rental car fleet bias. AMC stated that cars that were used heavily in rental fleets, such as its Alliance/Encore, tended to rank much higher on the NCIC theft data than they did in the NAIB theft data. AMC expressed its belief that many of these "thefts" were rental cars which were not stolen, but were returned late, returned to an unplanned drop-off point, or simply abandoned.

In response to this concern, NHTSA contacted NCIC to learn its procedures with respect to reporting thefts of rental cars. The NCIC stated that local police agencies generally require reports of stolen rental vehicles to be made in person by a representative of the rental car company. Additionally, many local police agencies require a waiting period of 3–30 days before they will accept a stolen vehicle report from a rental car company. NHTSA believes that this requirement limits the potential for abandoned or late rental cars being reported to the NCIC as stolen. Therefore, AMC's concern does not appear to be warranted.

Ford expressed its concern that the theft data it had been provided by the NCIC, in connection with its voluntary parts marking program, differed noticeably from the theft data the NCIC provided to NHTSA for its theft data publications. Again this agency contacted NCIC to relay Ford's comment. NCIC explained that the data provided to Ford were summary data that had not been edited to verify the accuracy of reported stolen vehicles' VIN's. Rather than use these summary reports, NHTSA obtained a list of stolen VIN's and ran that list against the *VINDICATOR* computer program to establish total thefts by make and model. The agency and NCIC believe this additional processing would explain the discrepancies in theft data published by the agency and the data provided to Ford by NCIC.

General Motors (GM) expressed concern about the difference in the ratio of reported vehicle thefts between NCIC and NATB data. GM stated that one would expect the NCIC theft data to include more vehicle thefts, because it is a more comprehensive theft reporting system than the NAIB system. However, GM also stated that one would expect the gap in reported thefts between the two systems to be declining. This latter expectation arises from NATB's estimate that its system now covers 90 percent of all insured vehicles and the fact that some States have recently adopted requirements that vehicle thefts be reported to NATB. The theft data published by the agency showed that this latter expectation has not proven true. In 1983, the NCIC received 2.30 reports of vehicle thefts for each report received by NATB, while in 1984, the NCIC received 2.54 vehicle theft reports for each report received by the NATB.

GM stated that, because of this anomaly, NHTSA should conduct a continuing evaluation of both NCIC and NATB theft data for the next three years. While GM concurred with NHTSA's tentative decision to use NCIC data for calculating the median theft rate, that company urged NHTSA not to make a final decision as to which source of theft data is more apropriate for the purposes of Title VI until that evaluation is completed.

GM's comment appears to be unrelated to the purpose of the theft data notices. Section 603(b)(3) of the Cost Savings Act specifies that NHTSA and the FBI shall "take such actions as may be necessary to improve the accuracy, reliability, and timeliness of such [theft] data, including ensuring that vehicles represented as stolen are in fact stolen." The agency will of course comply with this statutory mandate.

However, these theft data notices were not published in response to that particular statutory mandate. Instead, NHTSA published those notices to meet its statutory responsibility to "publish the most accurate and timely theft data for public review and comment." GM did not explain what effect, if any, the "anomaly" between the NCIC and NATB data has on the accuracy of the published NCIC data. NHTSA does not understand how this "anomaly", assuming it exists, would affect the accuracy of the published NCIC theft data, and so has not made any changes to these data in response to this comment.

Selection of "Lines"

This aspect of the theft data notices was by far the most controversial point in the theft data publications, even though the term "line" is explicitly defined in section 601(2) of the Cost Savings Act. That section reads as follows: "The term 'line' means a *name* which a manufacture applies to a group of motor vehicle models of the same make which have the same body or chassis, or otherwise are similar in construction or design." Further, section

603(b)(1) directs the agency to use the production volumes of the lines, as reported to the Environmental Protection Agency (EPA under Title V of the Cost Savings Act, to calculate the theft rates. Hence, the agency applied the term "Line" in a manner as similar as possible to that used by EPA, so that NHTSA could use the EPA information.

NHTSA explained how it would apply the term "line" in detail in the final rule establishing 49 CFR Part 542, *Procedures for Selecting Lines to be Covered by the Theft Prevention Standard. See* 50 FR 34831, at 34833; August 28, 1985. However, NHTSA will address the subject again to be certain that the commenters understand how the term was applied in calculating these theft data.

Section 601(2) plainly states that lines are created by the names that manufactuers apply to a group of vehicles. Accordingly, NHTSA believes that Congress intended that all vehicles with the same nameplate would be treated as single line, regardless of styling and performance differences. Hence, Volkswagen's comment that its Rabbit and Rabbit convertible should be considered separate lines was not persuasive.

When a vehicle is completely redesigned, but retains the same nameplate, the new vehicle is treated as a continuation of the same line. This conclusion was reached because section 601(2) of the Cost Savings Act focuses on the name applied to the vehicles by the manufacturer. Hence, although the Chevrolet Corvette and the Audi 5000S were completely redesigned, their use of the same nameplate as the predecessor vehicles caused the NHTSA to treat the redesigned vehicles as continuations of the same line.

It becomes more difficult to apply the term "line" as manufacturers add further names to the basic nameplate. For example, NHTSA had to decide whether a Pontiac 6000 STE is a model within the Pontiac 6000 line, or whether it is a separate line. In these instances, NHTSA adopted a presumption that the additional identifier created a new "line". This presumption was rebutted if the additional identifier is reported to EPA as a part of the "line" covered by the basic nameplate. In this case, the need to use the EPA production data to calculate the theft rate for the line requires the agency to classify lines in the same way the EPA has.

The agency applied these criteria in grouping the vehicles into 130 lines in the two previous theft data notices. After reexamining the application of the statutory definition of "line" in those notices, NHTSA has concluded that those notices set forth the most appropriate grouping of vehicles into lines, this and final notice sets forth the same 130 lines of vehicles.

Calculation of Theft Rates

Section 603(b)(1) of the Cost Savings Act sets forth the equation NHTSA must use to determine the theft rate for vehicle lines. The theft rate is determined by a fraction, the numerator of which is the number of thefts of model years 1983 and 1984 vehicles of that line during calendar years 1983 and 1984, and the denominator of which is the sum of the production volumes for that line in the 1983 and 1984 model years, as reported to EPA under Title V of the Cost Savings Act.

After applying this formula to each existing line, NHTSA is directed by section 603(b)(2) to rank the lines by theft rates to calculate the median theft rate. When there are an even number of theif rates, as there are in the present case, section 603(b)(2) directs that the median theft rate shall be the one that divides the theft rates into two equal groups. Applying that to this situation where there are 130 theft rates, the median theft rate is the arithmetic average of the theft rates ranked numbers 65 and 66. The first 65 lines listed at the end of this notice are automatically selected for coverage under the vehicle theft prevention standard unless the section 603(a)(3) limitation applies. That section specifies that not more than a total of 14 of a manufacturer's lines introduced before the effective date of the standard can be selected for coverage under the theft prevention standard.

NHTSA published the supplemental theft data notice to determine the most appropriate means of handling multiple counting of the same vehicle theft, as explained above. The supplemental notice set forth three possible alternatives for dealing with this problem. The first alternative was to exclude all duplicate VIN's with the same date of theft. This would eliminate the most obvious errors, but might not eliminate all multiple countings of the same theft. For this reason, NHTSA stated its tentative determination that it would use a second alternative to deal with this problem. Under this alternative, all duplicate VIN's reported within seven calendar days of each other would be excluded. The third alternative would exclude all duplicate VIN's in the same calendar year, regardless of their dates of entry. NHTSA did not adopt this alternative, because its contacts with police and insurance officials indicated that multiple thefts of the same vehicle in the same calendar year are not uncommon.

Five comments were received in response to the supplemental notice. AMC, Chrysler, Ford, and GM supported the agency's tentative conclusion to handle the problem of multiple counting of the same vehicle theft by excluding all duplicate VIN's reported within seven calendar days of each other. Volkswagen commented that NHTSA should exclude all duplicate VIN's in the same calendar year. According to VW, the purpose of Title VI was to deal with "chop shop" theft operations and not joyriders. VW stated that multiple thefts of the same vehicle would show that the vehicle was stolen by joyriders. Vehicles stolen for chop shops usually disappear and are never recovered, according to the comment.

VW did not provide any data supporting their assertions. Agency contacts with police officials indicate that "theft-to-order" rings are prevalent across the country. In these rings, professional thieves take orders for specific parts from specific models of cars. The thieves then steal these specific models of cars, remove the specific parts ordered, and abandon the car. The cars are generally recovered, but missing the removed parts. Based on this information, NHTSA believes that cars stolen for chop shops by these theft-to-order rings would generally be recovered and could be stolen again. Hence, the agency does not agree with the assertion in VW's comments that the recovery of a vehicle means it was not stolen for chop shop purposes.

Even if NHTSA agreed with VW's assertion that recovered vehicles were not stolen for chop shop purposes, the comment would not be relevant to the purposes of this theft data notice. The statute does not direct this agency or the FBI to attempt to determine whether or not a theft was for chop shop or joyriding purposes, and then count only those which were for chop shop purposes when calculating a theft rate for each line. Instead, section 603(b)(1) directs the agency to calculate theft rates by using "the number of new passenger motor vehicle thefts" for each car line. The use of this broadly inclusive language shows a Congressional intent to count each theft of a vehicle when calculating theft rates, not an intent to count only those thefts which can clearly be shown to be for chop shop purposes. Because NHTSA believes that its proposal to exclude all duplicate VIN's reported within seven calendar days of each other represents the most appropriate way of handling the problem of multiple countings of the

same theft, that approach was used in calculating these final theft data.

Chrysler commented that the agency had miscalculated the theft rates for some of its lines, by failing to include police and emergency vehicles in those lines as a part of the total production volume. By not including these vehicles in the total production, Chrysler stated that the theft rates for these lines were overstated in the prior theft date notices.

Section 603(b)(1) of the Cost Savings Act directs the agency to calculate the theft rates using "the production volume of all passenger motor vehicles of that line (*as reported to the EPA under Title V of this Act*) . . ." (emphasis added). In Title V, section 502(g)(1) (15 U.S.C. 2002(g)(1)) reads as follows: "At the election of any manufacturer, the fuel economy of any emergency vehicle shall not be taken into account in applying any fuel economy standard . . ." The EPA informed NHTSA that Chrysler has exercised this option, and so does not report its police and emergency vehicles as a part of the total production reported to EPA for the purposes of Title V of the Cost Savings Act. The EPA further provided NHTSA with a copy of the reports Chrysler filed for the purposes of Title V. The production figures in those were exactly the same as those published in the theft data notices. Hence, the agency has used the correct production volumes for the Chrysler lines, and those same figures are incorporated in this final theft data notice.

AMC, Chrysler, and Ferrari suggested that the agency omit certain car lines when calculating theft rates. AMC proposed that all lines with no reported thefts during 1983 or 1984 be exempted from the calculation of the median theft rate. Chrysler proposed that all lines with annual production volumes of less than 1,000 not be considered in the calculation of the median theft rate. Ferrari stated that there should be some procedure to exempt car lines with fewer than 20 thefts annually from the requirements of the vehicle theft prevention standard.

None of these suggestions were adopted by the agency. As explained in greater detail in the preamble to the rule establishing the vehicle theft prevention standard, section 603(b)(1) of the Cost Savings Act specifies that passenger motor vehicles of *any* line which is determined to have a theft rate that exceeds the median theft rate for 1983 and 1984 is a high theft line and is subject to the vehicle theft prevention standard. The only exemption authority granted to the agency in Title VI is set forth in section 605, which allows exemptions from the theft prevention for high theft lines equipped with original equipment anti-theft devices that meet certain requirements. When Congress drafted Title VI so as to provide only one means of exempting subject vehicles from its requirements, it is presumed that Congress intended to exclude other means of exempting vehicles from those requirements.

The presumption that Congress did not intend any other exemptions is reinforced by comparing Titles V and VI of the Cost Savings Act. Title V expressly provides NHTSA with authority to exempt small manufacturers from the generally applicable fuel economy standards. The absence of any comparable exemption authority in Title VI shows a Congressional intent that vehicles not be exempted from the theft prevention standard or the calculation of the median theft rate just because relatively few of the vehicles are produced or stolen. Hence, these comments have not been adopted in preparing these final theft data.

Volkswagen stated that the agency had counted the theft rate of eight lines that had theft rates of 0 eight times. According to Volkswagen, this common theft rate should have been counted only once. This would mean that there would be only 123 entries, and the median theft rate would be number 62. NHTSA did not adopt this comment in preparing these final theft data. It is a basic statistical principle that one counts repeating entries as many times as they occur, when calculating a median for those entries. Therefore, the median theft rate remains the arithmetic average of the 65th and 66th rate shown in the following table, and lines with theft rates above the 66th are high theft lines.

Theft Rankings

General Motors commented that NHTSA should not carry the theft rate determinations to four decimal places, because this "implies accuracy that exceeds the level warranted by the data." GM suggested that the theft rates be rounded off to one decimal place. The agency has not adopted this suggestion. The reason for carrying the rate determinations to four decimal places is to clearly establish distinctions in the theft rates among the various lines. If necessary, NHTSA will use more than four decimal places to establish those distinctions.

Conclusions

Based on the data set forth in the following table, NHTSA has determined the median theft rate for 1983 and 1984 to be 3.2712 thefts per 1000 vehicles produced. This figure is the arithmetic average of the 65th and 66th theft rate shown in the table, and was calculated according to the instructions in section 603(b)(2) of the Cost Savings Act. Except for those lines subject to the 14 line limit specified in section 603(a)(3) of the Cost Savings Act, each of the lines shown in positions 1 through 65, inclusive, in this table will be listed in Appendix A of Part 541, the vehicle theft prevention standard. That listing will mean that vehicles in these lines and their major replacement parts will have to be marked as specified in Part 541, beginning with the 1987 model year.

Authority: 15 U.S.C. 2021 and 2023; delegation of authority at 49 CFR 1.50.

Issued on: November 6, 1985.

Diane K. Steed,

Administrator.

FINAL THEFT DATA FOR THE THEFT PREVENTION STANDARD

Manufacturer	Make/Model (line)	Thefts (FBI)		Production (Manufacturers)		Combined Thefts/product (1983 and 1984) (1000)
		1983	1984	1983	1984	
1. General Motors	Buick Riviera	787	935	48,980	56,094	16.3997
2. Toyota	Celica Supra	427	424	26,147	29,990	15.1593
3. General Motors	Cadillac Eldorado	1,038	955	66,601	76,656	13.9121
4. General Motors	Chevrolet Corvette	0	625	0	49,510	12.6237
5. General Motors	Pontiac Firebird	765	1,529	66,939	117,033	12.4693
6. Mazda	RX-7	670	566	60,743	41,306	12.1118
7. General Motors	Chevrolet Camaro	1,606	2,963	143,614	244,192	11.7817
8. Porsche	911	68	47	5,070	5,316	11.0726
9. General Motors	Pontiac Grand Prix	883	890	85,693	77,313	10.7542
10. General Motors	Oldsmobile Toronado	410	497	38,499	46,462	10.6755
11. General Motors	Buick Electra	670	639	79,021	50,413	10.1133
12. General Motors	Oldsmobile Cutlass Supreme/Cruiser (RWD).	2,599	3,826	294,245	344,330	10.0615
13. General Motors	Chevrolet Monte Carlo	825	1,391	91,336	131,018	9.9662
14. Ford Motor Co.	Lincoln Town Car	650	753	51,662	89,901	9.9108
15. General Motors	Buick Regal	1,993	2,318	220,363	216,864	9.8599
16. General Motors	Cadillac Deville/Brougham (RWD)	1,661	1,483	170,336	153,855	9.6979
17. General Motors	Cadillac Seville	335	319	29753	39,060	9.5013
18. Ford Motor Co.	Lincoln Mercury Mark	125	388	30,104	32,460	8.1996
19. General Motors	Oldsmobile 98	844	632	113,290	70,351	8.0374

FINAL THEFT DATA FOR THE THEFT PREVENTION STANDARD—Continued

Manufacturer	Make/Model (line)	Thefts (FBI)		Production (Manufacturers)		Combined Thefts/product (1983 and 1984) (1000)
		1983	1984	1983	1984	
20. Mitsubishi	Starion	44	48	6,297	5,557	7.7611
21. Nissan	280ZX/300ZX	611	405	55,832	75,374	8.7435
22. Toyota	Celica ST/GT/GTS	706	678	119,131	91,156	6.5815
23. Ford Motor Co.	Mercury Capri	126	119	21,832	16,825	6.3695
24. General Motors	Cadillac Limousine	5	7	940	978	6.2565
25. Mercedes-Benz	380SL	55	53	8,763	8,751	6.1665
26. Ford Motor Co.	Ford Mustang	629	835	109,377	129,586	6.1266
27. Toyota	Cressida	199	232	39,015	36,426	5.7131
28. Toyota	Corolla/Corolla Sport	1,163	735	166,883	178,058	5.5024
29. Audi	Quattro	3	0	522	36	5.3763
30. Mercedes-Benz	380SEC/500SEC	11	8	1,910	1,625	5.3748
31. BMW	3-Line	219	271	25,505	66,506	5.3255
32. Mazda	GLC	170	361	50,151	53,509	5.1225
33. BMW	5-Line	72	95	16,233	16,667	5.0760
34. BMW	6-Line	16	13	2,635	3,119	5.0400
35. BMW	7-Line	34	42	6,541	9,968	4.9004
36. Porsche	928	11	13	2,062	2,850	4.8860
37. General Motors	Oldsmobile Delta 88/Custom Cruiser	953	1,423	209,453	278,033	4.8740
38. Jaguar	XJ-S	9	11	1,344	2,812	4.8123
39. Jaguar	XJ	42	50	6,542	12,865	4.7626
40. Volkswagen	Rabbit	228	582	77,523	96,381	4.6577
41. Ford Motor Co.	Ford Thunderbird	348	899	113,834	162,124	4.5188
42. Ferrari	308	2	2	513	378	4.4893
43. General Motors	Cadillac Cimarron	91	92	19,070	21,767	4.4812
44. Ferrari	Mondial 8	0	1	113	113	4.4248
45. Toyota	Starlet	21	18	7,634	1,213	4.4063
46. General Motors	Buick Lesabre	677	743	139,164	163,928	4.3551
47. General Motors	Chevrolet Impala/Caprice	861	1,191	213,224	262,084	4.3172
48. Chrysler Corp.	Chrysler Fifth Avenue/Newport	412	290	83,525	79,652	4.3021
49. Mazda	626	161	363	47,406	75,267	4.2708
50. Mitsubishi	Tredia	50	70	14,378	14,000	4.2286
51. Chrysler Corp.	Chrysler Executive Sedan/Limousine	2	2	167	789	4.1841
52. Saab	900	97	138	23,273	33,011	4.1753
53. General Motors	Pontiac 6000	180	592	68,456	122,106	4.0493
54. Mitsubishi	Cordia	42	61	12,250	13,239	4.0410
55. General Motors	Pontiac Bonneville	283	333	80,652	72,791	4.0145
56. Maserati	Quattroporte	0	1	52	200	3.9683
57. Ford Motor Co.	Mercury Cougar	192	570	69,979	124,576	3.9166
58. Chrysler Corp.	Dodge Aries	420	489	113,182	121,101	3.8799
59. Nissan	810/Maxima	212	319	63,284	76,293	3.8044
60. Chrysler Corp.	Dodge Diplomat	99	24	11,402	22,174	3.6633
61. Mercedes-Benz	380SEL/500SEL	25	7	5,213	3,618	3.6236
62. Ford Motor Co.	Lincoln Continental	71	96	16,465	29,826	3.6061
63. Volkswagen	Scirocco	12	71	6,263	18,261	3.3844
64. Chrysler Corp.	Chrysler Labaron/Town and Country	217	355	70,364	101,377	3.3306
65. Audi	5000S	118	131	16,502	59,361	3.2822
66. Mercedes-Benz	300SD/380SE	74	56	19,173	20,703	3.2001
67. AMC/Renault	Alliance/Encore	255	784	126,742	186,887	3.2491
68. Porsche	944	42	47	12,309	15,538	3.1960
69. Chrysler Corp.	Plymouth Reliant	397	554	145,916	153,101	3,1804
70. Ford Motor Co.	Ford LTD	458	610	144,676	192,608	3.1665
71. Bertone	X-1/9	0	5	1,064	521	3.1546
72. General Motors	Chevrolet Chevette	468	650	150,775	212,311	3.0792
73. General Motors	Buick Century	323	632	118,116	205,298	2.9529
74. Chrysler Corp.	Dodge Charger	105	174	41,500	54,279	2.9130
75. Ford Motor Co.	Ford Exp	57	64	19,243	22,640	2.8890
76. Chrysler Corp.	Dodge 600/400	162	185	59,511	61,776	2.8610
77. Chrysler Corp.	Chrysler E-Class/New Yorker	199	269	73,168	92,822	2.8194
78. Chrysler Corp.	Dodge Omni	74	236	42,620	68,071	2.8006
79. General Motors	Oldsmobile Cutlass Ciera/Cruiser (FWD).	426	706	157,544	260,631	2.7057
80. Alfa Romeo	GTV6	3	2	836	1,022	2.6911
81. Chrysler Corp.	Plymouth Gran Fury	35	23	7,458	14,524	2.6385
82. Chrysler Corp.	Dodge Colt/Colt Vista	96	92	31,536	40,963	2.5931
83. Toyota	Tercel	363	334	152,820	117,654	2.5770
84. Nissan	Pulsar	137	121	64,509	36,546	2.5531
85. Chrysler Corp.	Plymounth Turismo	74	135	32,125	49,747	2.5528
86. Nissan	Sentra	537	557	230,240	202,624	2.5274
87. Alfa Romeo	Spider Veloce 2000	2	8	1,307	2,691	2.5013
88. Ford Motor Co.	Mercury Lynx	193	153	74,981	64,520	2.4803
89. Chrysler Corp.	Plymouth Horizon	73	237	46,476	78,581	2.4789
90. Volkswagen	Jetta	10	99	9,757	34,308	2.4736
91. Nissan	200 SX	117	119	27,573	68,331	2.4608
92. Rolls-Royce/Bentley	Corniche	1	0	191	220	2.4331
93. General Motors	Pontiac 2000/Sunbird	141	368	66,126	148,172	2.3752
94. Mercedes-Benz	240D/300D/300CD/300TD	83	53	36,012	21,552	2.3626
95. Ford Motor Co.	Ford Escort	611	866	289,008	348,010	2.3500
96. Isuzu	I-Mark	24	11	8,072	6,857	2.3444
97. Chrysler Corp.	Plymouth Colt/Colt Vista	55	93	27,466	36,322	2.3202
98. General Motors	Pontiac T1000/1000	50	89	24,952	35,664	2.2924
99. Volkswagen	Quantum	18	39	9,542	15,637	2.2638
100. General Motors	Chevrolet Celebrity	232	713	136,829	308,616	2.1073
101. Subaru	Subaru	160	245	92,030	101,200	2.0959
102. Ford Motor Co.	Mercury Marquis	174	149	59,699	97,577	2.0537
103. Audi	4000/Coupe	18	52	8,350	26,616	2.0019
104. Avanti	Avanti II	0	1	233	270	1.9881

FINAL THEFT DATA FOR THE THEFT PREVENTION STANDARD—Continued

Manufacturer	Make/Model (line)	Thefts (FBI)		Production (Manufacturers)		Combined Thefts/product (1983 and 1984) (1000)
		1983	1984	1983	1984	
105. Honda	Prelude	50	133	38,388	57,614	1.9062
106. General Motors	Buick Skylark	160	211	95,995	99,857	1.8943
107. General Motors	Buick Skyhawk	116	248	59,552	136,056	1.8609
108. Ford Motor Co.	Ford LTD Crown Victoria	190	249	92,877	143,969	1.8535
109. General Motors	Oldsmobile Omega	87	72	47,277	42,316	1.7747
110. General Motors	Chevrolet Cavalier	267	843	202,548	433,989	1.7438
111. Volvo	760 GLE	15	24	8,992	13,427	1.7396
112. Peugeot	504/505	30	22	11,580	18,846	1.7091
113. General Motors	Oldsmobile Firenza	58	128	36,943	73,054	1.6910
114. AMC/Renault	Fuego	37	8	18,581	8,510	1.6611
115. General Motors	Chevrolet Citation	148	150	86,409	93,161	1.6595
116. Nissan	Stanza	94	83	62,159	44,860	1.6539
117. Honda	Accord	345	421	221,192	260,717	1.5895
118. Volvo	DL/GL	125	132	74,571	90,737	1.5547
119. Honda	Civic	232	223	142,164	164,639	1.4830
120. Ford Motor Co.	Mercury Grand Marquis	120	209	90,993	139,473	1.4279
121. Pininfarina	Spider 2000	1	2	1,073	1,093	1.3850
122. General Motors	Pontiac Phoenix	29	22	21,869	15,499	1.3648
123. AMC/Renault	181/Sportwagon	10	0	6,133	2,833	1.1153
124. Zimmer	Classic/Elegante/Cabriolet	0	0	280	159	0.0000
125. Rolls-Royce/Bentley	Camargue	0	0	11	10	0.0000
126. Rolls-Royce/Bentley	Silver Spirit/Silver Spur/Mulsanne	0	0	245	850	0.0000
127. Peugeot	604	0	0	217	417	0.0000
128. Bitter GMBH	Bitter	0	0	26	64	0.0000
129. Aurora	BRX Aurora	0	0	41	38	0.0000
130. Aston Martin	Saloon/Vantage/Volante	0	0	9	20	0.0000

[FR Doc. 85–26879 Filed 11–6–85; 5:09 pm]
BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 41270-5026]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Services (NMPS), NOAA, Commerce.

ACTION: Notice of size limit adjustment and request for comment.

SUMMARY: NOAA issues a notice of size limit adjustment for the surf clam fishery. This rule reduces the minimum size limit for surf clams to 5 inches. The intended effect of the rule is to reduce the discard rate, resulting in greater short and long-term yield from the fishery.

EFFECTIVE DATES: November 8, 1985. Comments will be accepted until November 27, 1985.

ADDRESS: Send comments to Monique Rutledge, Northeast Region, National Marine Fisheries Service, State and Fish Pier, Gloucester, MA 01930. Mark on the outside of the envelope, "Comments on the surf clam size limit." Copies of the statistical information supporting this rule may be obtained from Ms. Rutledge at the same address.

FOR FURTHER INFORMATION CONTACT: Monique Rutledge, 617–281–3600, extension 272.

SUPPLEMENTARY INFORMATION: Amendment 5 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) (50 FR 11166, March 20, 1985), made effective a minimum size limit for surf clams of 5½ inches in length in all three areas of the fishery and implemented an FMP framework management measure which allows adjustment of this minimum size limit for surf clams by authorizing the Director of the Northeast Region, NMFS (Regional Director), in consultation with the Mid-Atlantic Fishery Management Council (Council), to select a minimum size limit for surf clams from among the following values: 5½, 5¼, 5, and 4¾ inches. The size limit is selected to reduce discards of surf clams to less than 30 percent, on average, or trip catches. The Regional Director monitors current stock assessments, catch reports, and other relevant information concerning the size distribution of the surf clam resource in determining if any adjustment in the size limit is appropriate.

The current minimum size limit of 5¼ inches for surf clams has been in effect since October 14, 1984, first under an emergency rule and currently under Amendment 5 (50 FR 14930, April 12, 1985).

The Council voted at its September 1985 meeting to recommend that the Regional Director reduce the size limit to 5 inches. The Council's Surf Clam Committee, at its meeting on October 28, 1985, provided the Regional Director with an interpretation of how the discard rate is to be constructed. According to Committee guidance, as approved by a poll of the full Council, the discard rate is to be determined by adding potential discards (landings of undersized clams) to the actual discards (those undersized clams that are thrown overboard).

The NMFS Northeast Fisheries Center (NEFC) analyzed surf clam discard rates and size composition of landings in the Mid-Atlantic Area from January 1, 1985, through October 4, 1985. These data show that the percentage of potential discards plus actual discards is approximately 45 percent for the ten-month period, exceeding the target discard level of 30 percent.

Based on the data from the NEFC, statements from industry, and guidance from the Council, the Regional Director has determined that the minimum size limit for surf clams should be reduced from 5¼ inches to 5 inches in order to reduce the discard rate to less than 30 percent, on average, of trip catches. NOAA therefore issues this notice to reduce the minimum size limit to 5 inches in all three areas of the fishery. Comments on this action are invited from the public, and will be accepted until November 27, 1985. After consideration of public comments, the Secretary may publish notice in the **Federal Register** of any changes in this size limit.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 652

Fisheries, Fishing.

Dated: November 6, 1985

Joseph W. Angelovic,
Deputy Assistant Administrator for Science and Technology, National Marine Fishers Services.

[FR Doc. 85–26840 Filed 11–8–85; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 218
Tuesday, November 12, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Issuance of Quarterly Report on the NRC Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of NRC Regulatory Agenda.

SUMMARY: The Nuclear Regulatory Commission has issued the September 1985 Regulatory Agenda. The Agenda, which is a quarterly summary of all rules on which the NRC has proposed or is planning action and all petitions for rulemaking which have been received and are pending disposition by the Commission, is issued to provide the public with information regarding NRC's rulemaking activities.

ADDRESS: A copy of this report designated NRC Regulatory Agenda (NUREG-0936) Vol. 4, No. 3, is available for inspection and copying at a cost of five cents per page at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555.

Single copies of the report may be purchased from the U.S. Government Printing Office (GPO) at a cost of $6.00, payable in advance. Customers may call (202) 275-2060 or (202) 275-2171 or write to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, Telephone number (301) 492-7086, or Toll free (800) 368-5642.

Dated at Bethesda, Maryland this 5th day of November 1985.

J.M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 85-26858 Filed 11-8-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

10 CFR Part 1046

Proposed Amendment to Physical Fitness Training Program for Protective Force Personnel

AGENCY: Defense Programs, DOE.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Energy (DOE) proposes to amend 10 CFR Part 1046 to require each contractor security inspector to participate in a physical fitness program on a continuing basis. DOE has determined preliminarily that continuous training is necessary for security inspectors to carry out their security duties in a safe and effective manner.

DATES: Written comments must be received by 4:00 p.m. December 12, 1985.

Hearing dates and times:

Albuquerque Hearing: 9:30 a.m.—November 19, 1985.

Washington, D.C. Hearing: 9:30 a.m.—November 26, 1985.

Requests to speak at a hearing must be received by 4:00 p.m. on the following dates:

Albuquerque Hearing: November 16, 1985.

Washington, D.C. Hearing: November 23, 1985.

A list of speakers will be available and speakers selected to participate in the hearing will be notified by 4:00 p.m. on the following dates:

Albuquerque Hearing: November 18, 1985.

Washington, D.C. Hearing: November 25, 1985.

Fifteen copies of speakers' statements must be received by DOE at the appropriate hearing location no later than 4:00 p.m. on the following dates:

Albuquerque Hearing: November 18, 1975.

Washington, D.C. Hearing: November 25, 1985.

ADDRESSES: Written comments should be submitted to Martin J. Dowd., Department of Energy, Defense Programs, DP-343, Germantown, Washington, D.C. 20545, (301) 353-3203.

Requests to speak at either of the two hearings and requests for a list of speakers should be submitted to: Martin J. Dowd, Department of Energy, Defense Programs, DP-343, Germantown, Washington, D.C. 20545, (301) 353-3203.

The hearing locations are:

Albuquerque Hearing: Federal Building, 517 Gold Street, SW., Room 4210, Albuquerque, New Mexico 87115, Contact: Anna Bachicha, (505) 846-6938.

Washington, D.C. Hearing: Department of Energy, Forrestal Building, Room GJ-015, 1000 Independence Avenue, SW., Washington, D.C. 20585, Contact: Gail Bradshaw, (202) 252-5806.

Speakers should submit their statements to the contact person at the appropriate hearing location by the appropriate date listed above.

FOR FURTHER INFORMATION CONTACT:

Martin J. Dowd, Department of Energy Defense Programs, DP-343, Germantown, Washington, DC. 20545, (301) 353-3203.

Jo Ann Williams, Department of Energy, GC-31, Room 6B-256, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6975.

SUPPLEMENTARY INFORMATION:

I. Background

On November 23, 1984, the Department of Energy promulgated regulations (49 FR 46097-46105) designed to ensure that DOE contractor security inspectors have the requisite medical and physical fitness to protect weapons, special nuclear material, and sensitive facilities effectively.

As promulgated, the regulations require each incumbent security inspector to participate in a physical fitness training program until he or she meets the applicable physical fitness standards for initial qualification. DOE has preliminarily determined that mandatory physical fitness training on a continuing basis is necessary for security inspectors to maintain the desired level of physical fitness. Therefore, DOE is proposing that participation in a continous physical fitness program be required. Each DOE contractor employing security inspectors shall be responsible for development and implementation of such a program subject to the approval of the cognizant DOE Field Organization.

II. Procedural Requirements

A. Review Under Executive Order 12291

The Proposed Rule was reviewed under Executive Order 12291 (48 FR 12193, Feb. 19, 1981). DOE has concluded that the rule is not a "major rule" under the Executive Order. It will not result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, State, Federal, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Pursuant to section 3(c)(3) of Executive Order 12291, this Proposed Rule was submitted to the Director of OMB for a 10-day review. The Director has concluded his review under that Executive Order.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164 (5 U.S.C. 60.1 *et seq.*) requires, in part, that an agency prepare a regulatory flexibility analysis for any proposed rule unless it determines that the rule will not have a "significant economic impact on a substantial number of small entities." In the event that such an analysis is not required for a particular rule, the agency must publish a certification and an explanation of that determination in the **Federal Register**. This Proposed Rule deals with a training program for DOE protective personnel. The economic impact on small businesses is negligible. Accordingly, pursuant to section 606(b) of the Regulatory Flexibility Act, DOE certifies that the Proposed Rule will not have a significant economic impact on a substantial number of small entities.

C. Environmental Review

DOE has determined that this Proposed Rule is not a major Federal action with significant environmental impact, and therefore does not require preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*).

D. Paperwork Reduction Act

These proposed regulations do not impose a collection of information requirement; therefore, it is not necessary to submit them to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 10 CFR Part 1046

Security measures, Medical and physical fitness/qualifications standards, Government contracts.

For reasons set out in the preamble, Subpart B of 10 CFR Part 1046 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued at Washington, D.C. this 4th day of November, 1985.

Donald Ofte,

Acting Assistant Secretary for Defense Programs.

PART 1046—[AMENDED]

1. The authority citation for Part 1046 continues to read as follows:

Authority: Atomic Energy Act, 68 Stat. 919 (42 U.S.C. 2011 *et seq.*); Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et seq.*)

2. In § 1046.12 of Subpart B, a new paragraph (d) is added as follows:

Subpart B—Protective Force Personnel

§ 1046.12 Physical Fitness Training Program.

* * * * *

(d) After his or her initial qualification, each incumbent security inspector shall participate in a DOE-approved physical fitness training program on a continuing basis. This training is for the purpose of ensuring that security inspectors maintain the requisite physical fitness for effective job performance and to enable the individual security inspectors to pass the applicable annual physical fitness requalification test without suffering any undue physical injury.

Appendix A—[Amended]

3. Appendix A to Subpart B would be amended by revising section B(7) and removing B(8) as follows:

(7) Training Program. Beginning January 23, 1985, incumbent security inspectors shall participate in a physical fitness training program.

4. Sections B(9) and B(10) of Appendix A to Subpart B would be redesignated as Section B(8) and (9), respectively.

[FR Doc. 85–26699 Filed 11–8–85; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 139

[Docket No. 24812; Notice No. 85-22]

Revision of Airport Certification Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Clarification of proposed rule.

SUMMARY: On Wednesday, October 23, 1985 a proposed revision to the Airport Certification rules was published in Volume 50, Number 205 of the **Federal Register.** There are two corrections that are required to clarify some of the information that was published in the proposed rule.

FOR FURTHER INFORMATION CONTACT: Mr. Jose Roman, Jr., Safety and Compliance Division (AAS–300), Office of Airport Standards, 800 Independence Avenue, SW., Washington, DC 20591. Telephone (202) 426–3087.

SUPPLEMENTARY INFORMATION:

Availability of NPRM

Any person may obtain a copy of the Notice of Proposed Rulemaking by calling (202) 426–8058 in lieu of the number originally published on page 43094, (202) 426–3058.

Section 139.317 Handling and Storing of Hazardous Substances and Materials.

In the preamble of the proposed rule, a discussion of the various options available regarding misfueling and fuel contamination is found in pages 43100–43102. This discussion states that the FAA has three rulemaking options available. The first option would be to directly certificate fuelers. The second option would be to rely on a voluntary program of industry self-regulation of tenant fueling practices and procedures to protect against misfueling and fuel contamination but continue to require certificate holders to exercise general oversight of other fueling activities. The third option would be to continue to require airport operators to exercise general oversight of all fueling activities.

On page 43101 it is stated that for the purposes of the proposed NPRM only discussions on the second and third rulemaking options follow. The first option was ruled out. The preamble stated: "The proposed second option (in brackets following the third option) would contain . . .". The brackets,

however, were omitted in the printing of the proposed rule.

Section 139.317 on page 43111 contains proposals labeled Option 1 and Option 2 as alternative proposed requirements for the handling and storing of aviation fuel. The proposal labeled "Option 1" actually is the third option that was discussed in the preamble in pages 43101 and 43102, and the proposal labeled "Option 2" is the second option discussed in the same pages of the preamble.

Issued in Washington, DC, on November 4, 1985.

Leonard E. Mudd,

Director, Office of Airport Standards.

[FR Doc. 85-26723 Filed 11-8-85; 8:45 am]

BILLING CODE 4912-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1, 33 and 190

Amendments to Minimum Financial and Related Requirements for Futures Commission Merchants and Introducing Brokers; Contract Markets and Clearing Associations, Default and Bankruptcy; and Commodity Options Transactions

Correction

In FR Doc. 85-26239 beginning on page 45831 in the issue of Monday, November 4, 1985, make the following correction:

On page 45833, first column, first complete paragraph, fifteenth line, insert the following after the word "where": "a firm does have large, concentrated".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-214-84]

Return Relating to Mortgage Interest Received in a Trade or Business From Individuals; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the requirements of reporting mortgage interest received in a trade or business from individuals.

DATES: The public hearing will be held on Tuesday, January 7, 1986, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, December 11, 1985.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, ATTN: CC:LR:T (LR-214-84), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 6050H of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Tuesday, August 20, 1985 (50 FR 33551).

The rules of § 601.601(a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notice of proposed rule-making and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Wednesday, December 11, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers wil be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-26880 Filed 11-8-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CDG7-85-50]

33 CFR Part 117

Drawbridge Operation Regulations; Okeechobee Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of Lee County the Coast Guard is considering a change to the regulations governing the Sanibel Causeway drawbridge by permitting the number of openings to be limited during certain periods. This proposal is being made because vehicular traffic has increased. This action should accommodate the needs of vehicular traffic yet still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before December 27, 1985.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 S.W. 1st Avenue, Miami, Florida 33130. The comments and other materials referenced in this notice will be available for inspection and copying at 51 S.W. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Proposed Regulations

The bridge is now required to open on signal at all times. The proposed rule would permit a one hour closed period each weekday afternoon to facilitate vehicular traffic. One opening would be allowed midway through this period for vessel passage.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.317 is proposed to be amended by adding paragraph (i) to read as follows:

§ 117.317 Okeechobee Waterway.

* * * * *

(i) The draw of the Sanibel Causeway bridge, mile 151 at Punta Rassa, shall open on signal except; that, from 3:45 p.m. to 4:45 p.m. Monday through Friday except federal holidays, the draw need open only at 4:15 p.m. Public vessels of the United States, tugs with tows, and vessels in distress shall be passed at any time.

Dated: October 24, 1985.

R. P. Cueroni,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 85–26837 Filed 11–8–85; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF EDUCATION

34 CFR Part 614

College Housing Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the regulations governing loans issued under the College Housing Program. These amendments would clarify existing cost reimbursement requirements on projects financed with college housing loans and provide greater flexibility in the Secretary's administration of the program.

DATES: Comments must be received on or before December 12, 1985.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Charles I. Griffith, Director, Division of Higher Education Incentive Programs, Office of Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education, (Room 3022, ROB–3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Charles I. Griffith. Telephone (202) 245–3253.

SUPPLEMENTARY INFORMATION: Current program regulations (34 CFR Part 614) for college housing loans to educational institutions provide that these loans may not be used to support projects for which an institution has begun construction prior to (1) filing a college housing loan application or (2) executing a loan agreement with the Secretary. These particular provisions are contained in 34 CFR 614.11(a), and indicate that once construction has begun the entire project is ineligible for college housing loan financing. In light of the proscription against construction before a loan agreement has been executed, it is possible for an institution that was originally selected for a loan to become ineligible to use that loan if it were to engage in premature construction. However, other regulatory provisions for the program, principally those contained in 34 CFR 614.52(a), suggest that construction prior to the execution of a loan agreement would not render the entire project ineligible for college housing loan financing, but would merely exclude such construction for reimbursement from college housing loan proceeds.

Based on the Secretary's experience in administering college housing loans, the regulatory provisions, which prohibited construction prior to the execution of a loan agreement, need to be amended to clarify the Secretary's policy. The amendments proposed by the Secretary would continue to render ineligible for college housing loan assistance any educational institution which contracted for construction before that institution files a college housing loan application. Further, construction in advance of the Secretary's execution of a loan agreement would still be impermissible (as an eligible cost) under the proposed regulations. However, such construction would not render the entire project ineligible. In addition, the Secretary is proposing that construction which addresses catastrophic events need not await the Secretary's execution of a loan agreement under certain circumstances.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classifed as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities affected by the regulations are small institutions of higher education. These amendments are beneficial to the postsecondary institutions affected and provide more flexibility in the administration of the College Housing Program. They do not affect a substantial number of institutions since they apply only to the reimbursement of costs incurred under certain emergency circumstances.

Paperwork Reduction Act of 1980

Section 614.52(b) contains proposed information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington.

D.C. 20503; Attention: Joseph F. Lackey, Jr.

All other comments regarding these proposed regulations should be sent to the Department of Education at the address given at the beginning of this preamble.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations.

All comments submitted in response to these proposed regulations will be available for inspection, during and after the comment period, in Room 3022, Regional Office Building #3, 7th and D Street, S.W., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Intergovernmental Review

This program is listed in other regulations promulgated by the Secretary (34 CFR Part 79) as subject to the intergovernmental review requirements under Executive Order 12372, and section 204 of the Demonstration Cities and Metropolitan Development Act of 1966. The objective of these requirements and Executive Order 12372, which implements these requirements, is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Education Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 614

Colleges and universities, Education, Housing, Loan programs—housing and community development.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance Number 84.142—College Housing Program)

Dated: November 5, 1985.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Part 614 of Title 34 of the Code of Federal Regulations as follows:

PART 614—COLLEGE HOUSING PROGRAM

1. The authority citation for Part 614 continues to read as follows:

Authority: Title IV of the Housing Act of 1950, 64 Stat. 48, 77; Pub. L. 81-475; (12 U.S.C. 1749–1749-d).

2. Section 614.11 is amended by revising paragraph (a) to read as follows:

§ 614.11 Conditions for eligibility of project.

* * * * *

(a) The applicant has not contracted for construction before filing its application.

* * * * *

3. Section 614.52 is amended by revising paragraph (a), redesignating paragraph (b) as paragraph (c), and adding a new paragraph (b) to read as follows:

§ 614.52 Additional ineligible costs.

(a) The Secretary excludes from eligible development costs any costs for construction, or for otherwise eligible equipment, if the construction contract was entered into before the Secretary executed the loan agreement and before the Secretary concurred in the award of the contract, except in cases where there is a threat to life and limb or there is a natural disaster which is related to the construction project.

(b) In cases of a threat to life or limb or a natural disaster, the Secretary, in determining the eligibility of costs incurred prior to execution of a loan agreement and the approval of a construction contract, requires that the applicant provide statements from a licensed professional architect or engineer certifying that construction is necessary and appropriate.

* * * * *

[FR Doc. 85-26843 Filed 11-8-85; 8:45 am]

BILLING CODE 4000-01-M

Notices

Federal Register
Vol. 50, No. 218
Tuesday, November 12, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COMMISSION ON CIVIL RIGHTS

Delaware Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Delaware Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 5:00 p.m. on December 3, 1985, at the Delaware Technical & Community College, Terry Campus Bldg., Room 212, 1832 N. Dupont Pkwy. (Route 13), Dover, Delaware. The purpose of the meeting is to review a report on the Committee's Statewide Civil Rights Conference, select further projects, and conduct a community forum on Nutrition Services and the Black Elderly.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson William Conner of John I. Binkley, Director of the Mid-Atlantic Regional Office at (202) 254-6717, (TDD 202/254-5461). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, November 5, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-26781 Filed 11-8-85; 8:45 am]

BILLING CODE 6335-01-M

North Carolina Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the North Carolina Advisory Committee to the Commission will convene at 2:00 p.m. and adjourn at 5:00 p.m. on December 9, 1985, at the Hotel Europa, 1 Europa Drive, Chapel Hill, North Carolina. The purpose of the meeting is to review and discuss the draft of the concept for the proposed study on the desegregation of North Carolina's public schools.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson , Donald Horowitz of Bobby Doctor, Director of the Southern Regional Office at (404) 221-4391, (TDD 404/221-4391). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, DC, November 5, 1985.

Bert Silver,

Assistant Staff Director for Regional Programs.

[FR Doc. 85-26782 Filed 11-8-85; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has sumitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1986 Census of Central Los Angeles County Nonhousehold Sources Program
Form No.: Agency—DC-434-U; OMB—NA
Type of request: New collection
Burden: 40,000 respondents; 2,000 reporting hours
Needs and uses: In order to improve upon the coverage of minority populations in the 1986 Census of Central Los Angeles County, the Census Bureau will conduct the nonhousehold sources program. Lists of people are obtained from outside sources and matched to census records to check for complete coverage.
Affected public: Individuals or households
Frequency: One time
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814

Agency: Bureau of the Census
Title: 1985 Company Organization Survey
Form No.: NC-9910
Type of request: New collection
Burden: 50,000 respondents; 6,333 reporting hours
Needs and uses: The information obtained will be used to maintain the Bureau of the Census file of company and establishment records and will be used for the continuing updating of the Standard Statistical Establishment List.
Affected public: Businesses or other for-profit institutions, non-profit institutions, and shall businesses or organizations
Frequency: Annually
Respondent's obligation: Mandatory
OMB desk officer: Timothy Sprehe, 395-4814

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Exceuctive Office Building, Washington, D.C. 20503.

Dated: November 4, 1985.

Edward Michals,

Department Clearance Officer.

[FR Doc. 26801 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 40-85]

Foreign-Trade Zone 105—Providence, Rhode Island; Application for Subzone Stainless Steel Fastener Plant, Pawtucket Fasteners, Pawtucket

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Rhode Island Port Authority and Economic Development Corporation, grantee for Foreign-Trade Zone 105, requesting special-purpose subzone status for the stainless steel fastener manufacturing plant of Pawtucket Fasteners, Inc., Pawtucket, Rhode Island, adjacent to the Providence Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 23, 1985.

The plant is located at 327 Pine St., Pawtucket. The 2.6-acre facility has been used to produce stainless steel screws and bolts, employing some 100 persons. In recent years the company has substantially reduced production, maintaining its sales by importing finished fasteners. Employment has been reduced to 7 persons. By reducing production costs on materials, subzone status would encourage the company to reinstate its production of fasteners in the U.S. It would purchase some 60 to 70 percent of its stainless steel wire rod and bar from foreign sources, primarily in France, Taiwan and Japan. Exports would be increased from 2 percent of sales to up to 7 percent.

Zone procedures would allow Pawtucket Fasteners to avoid duty payment and quota requirements on the foreign raw material used in its exports. On its domestic sales, the company would be able to take advantage of the same duty rate available to importers of fasteners. The duty rate on stainless steel wire and bar is about 10.5 percent, whereas the rate for machine screws is $.0040 per pound and for tapping screws, 7.4 percent. Duty rates on other fasteners range from 0.7 to 12.5 percent. The savings would help make the plant more competitive in relation to foreign producers of fasteners, increasing domestic employment and maintaining important skills.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli, (Chairman), U.S. Department of Commerce, Washington, D.C. 20230; Edward A. Goggin, Assistant Regional Commissioner, U.S. Customs Service, Northeast Region, 100 Summer St., Boston, MA 02110; and Colonel Thomas A. Rhen, Division Engineer, U.S. Army Engineer Division New England, 424 Trapelo Rd., Waltham, MA 02254.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at tha ddress below and postmarked on or before December 17, 1985.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce Branch Office, 7 Jackson Walkway, Providence, RI 02903;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, N.W., Washington, D.C. 20230.

Dated: November 5, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-26827 Filed 11-8-85; 45 am]

BILLING CODE 3510-DS-M

[Docket No. 41-85]

Foreign-Trade Zone 84, Harris County, TX; Within the Houston Customs Port of Entry, Application for Special-Purpose Site (Fuel Blending) GATX Terminals

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority, grantee of Foreign-Trade Zone 84, requesting an amendment to its zone plan to include a special-purpose zone site for the petroleum product storage terminals of GATX Terminals Corporation, a subsidiary of GATX Corporation, located in Harris County, Texas, adjacent to the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zone Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 25, 1985.

The PHA received authority from the Board to establish a multi-site foreign-trade zone in Harris County, Texas, on July 15, 1983 (Board Order 214, 48 FR 34792, 8/1/83). While 5 PHA sites were approved as conventional sites, the remaining sites were approved for 5 years subject to special conditions. The zone plan was amended in 1985 to delete 8 and add 10 non-PHA sites subject to the same conditions as the original ones (Board Order 303, 50 FR 20252). The proposed amendment of the plan for the GATX sites would also be subject to the same time limitation as the other non-PHA sites.

The proposed zone site would involve GATX's two, public, liquid bulk terminals on the Houston Ship Channel in Harris County. Site 1 covers 94 acres on Clinton Drive at Panther Creek. Site 2 covers 52 acres on North Witter Street at Bayou Street. The two facilities have a combined storage capacity of 17 million barrels, handling and distributing primarily motor fuels and petrochemical products for a variety of customers.

Zone status would be used for the blending and storage of foreign unfinished gasoline, reformate, naptha, pyrolysis gasoline and c/9 aromatics. These products would be combined with domestic blendstocks to make motor fuel primarily for the domestic market. The foreign products would account for about 50 to 70 percent of the finished gasoline.

Zone procedures would permit duty payments to be made on the foreign products at the rate available to importers of finished motor fuel, which is 1¼¢ per gallon compared with an average duty rate on the primary foreign components of 15¢ per gallon. The applicant states that these savings would result in lower gasoline costs to consumers and in improved access to alternate sources of gasoline. In reviewing the public interest aspects of the proposal the Board will consider its impact on domestic petroleum product refiners.

In accordance with the regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region, 5850 San Filipe Street, Houston, TX 77057; and Colonel Gordon M. Clarke, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 17, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 2625 Federal Courthouse, 515 Rusk St., Houston, TX 77002;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennslvania, NW., Washington, D.C. 20230.

Dated: November 5, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-26828 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-307-505]

Preliminary Negative Countervailing Duty Determination; Carbon Steel Wire Rod from Singapore

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Singapore of carbon steel wire rod. Therefore our preliminary countervailing duty determination is negative.

If this investigation proceeds normally, we will make our final determination by January 21, 1986.

EFFECTIVE DATE: November 12, 1985.

FOR FURTHER INFORMATION CONTACT: Laura Winfrey, David Levine, or Barbara Tillman of the Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-0160, 377-0186 or 377-2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

On the basis of our investigation, no programs are countervailable. Therefore, we determine that no benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended, are being provided to manufacturers, producers, or exporters in the Republic of Singapore.

Case History

On August 9, 1985, we received a petition in proper form from Atlantic Steel Co., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co. filed on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Singapore of carbon steel wire rod directly or indirectly receive benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on August 29, 1985, we initiated such as investigation (50 FR 36130). We stated that we expected to issue a preliminary determination by November 4, 1985.

Singapore is not a "country under the Agreement" within the meaning of section 701 (b) of the Act, and the merchandise being investigated is dutiable, therefore, sections 303 (a)(1) and (b) of the Act apply to this investigation. Accordingly, the petitioner is not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of this product materially injure, or threaten material injury to, a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Singapore in Washington, D.C. on August 29, 1985. On October 18, 1985, we received responses to our questionnaire from the government of Singapore, National Iron and Steel Mills Ltd. ("NISM), and Kloeckner Singapore Pte. Ltd. NISM is claimed to be the sole producer and Kloeckner the sole exporter in Singapore of carbon steel wire rod to the United States.

Scope of the Investigation

The product covered by this investigation in carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross-section, not under 0.20 inch nor over 0.74 inch in diameter. Wire rod is currently classifiable under items 607.14, 607.17, 607.22 and 607.23 of the *Tariff Schedules of the United States* (TSUS).

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, when a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a bounty or grant in the final determination.

For purposes of this preliminary determination, the period for which we are measuring bounties or grants ("the review period") is the calendar year 1984. Although there were no exports of the subject merchandise during our review period, calendar year 1984, there were exports of wire rod during 1985 and benefits were received in 1985. Therefore, we have investigated any potential benefits during 1985. The responses of the government of Singapore, and Kloeckner indicate that Kloeckner did not use any of the programs under investigation during the review period or in 1985.

I. Programs Preliminarily Determined Not To Confer Bounties or Grants

We preliminarily determine that bounties or grants are not provided to manufacturers, producers, or exporters of wire rod in Singapore under the following programs:

A. Utilization of Facilities in Industrial Estates

Petitioners allege that Singapore carbon steel wire rod manufacturers, producers, or exporters may receive benefits based on their location in "government-backed" industrial estates. Petitioners allege that these estates provide facilities such as factory buildings and property tax rates at preferential rates. The largest of these estates is Jurong and petitioners allege that Singapore wire rod manufacturers are located in Jurong. Petitioners also allege that other wire rod manufacturers may be located in other industrial estates, and may therefore receive similar benefits.

According to the responses of the government of Singapore, NISM, and Kloeckner, only NISM is located in an industrial estate. The responses claim that the property tax paid on industrial estate property is the same as that paid

by all companies in Singapore (i.e. 23 percent). The responses state that firms in industrial estates do not enjoy special privileges or concessions, and that land rents and rates on buildings and other facilities paid by such firms are based on prevailing market rates. Moreover, all industries in Singapore are eligible to be located in these estates and the response indicates that a wide variety of industries are in fact located in industrial estates in Singapore.

Accordingly, we preliminarily determine that the property tax rates in Jurong are not countervailable because they are not preferential compared to property tax rates in the remainder of the country. We also preliminarily determine that land rents paid in Jurong are not countervailable because all industries are eligible to locate in Jurong, and the land rent charged NISM is not preferential compared to the rate which would be charged on an identical site to a firm which entered into a lease at the same time.

B. Property Tax Rebates

Although not alleged by petitioners and not included in our "Initiation of Countervailing Duty Investigation: Carbon Steel Wire Rod from the Republic of Singapore" (50 FR 36130 (1985)), respondents have included in their responses a reference to Property Tax Rebates. This scheme involves a 30 percent rebate for owner-occupied industrial and commercial properties for 1½ years beginning July 1, 1985. The responses state that this measure applies to all businesses throughout the country. Thus, we preliminarily determine that this practice does not provide a bounty or grant because it is not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions.

C. Long-Term Loans from the Development Bank of Singapore (DBS)

Although not alleged by petitioners and not included in our Notice of Initiation, NISM provided information in its response that it has received long-term financing from the DBS. Respondents have submitted information indicating that similar DBS financing is available to all commercial borrowers without limitation. Therefore, we preliminarily determine that it is not countervailable because it is not limited to a specific enterprises or industry, or group of enterprise or industries. Moreover, based on information in the record to date, the terms of these loans do not appear to be inconsistent with commercial considerations.

II. Programs Preliminarily Determined Not To Be Used.

In accordance with our practice of accepting a response to an allegation which denies the receipt of benefits under a program, we preliminarily determine, subject to verification, that manufacturers, producers or exporters of carbon steel wire rod in Singapore did not use the following programs which were listed in our notice of initiation during the review period.

A. Parts II, III, IV, IVA, IVB, V, and VI of the Economic Expansion Incentives Act

Petitioners allege that the producers and exporters of carbon steel wire rod, based upon their classification under the Economic Expansion Incentives Act benefit from exemptions on income tax and taxes on royalties, technical assistance fees, research and development costs, and interest paid to non-residents. According to the responses of the government of Singapore, NISM, and Kloeckner, these exemptions were not claimed in the tax returns filed during the review period.

B. Research and Development Tax Incentives

Petitioners allege that producers and exporters of wire rod receive special tax treatment for approved research and development projects.

According to the responses of the government of Singapore, NISM, and Kloeckner, this program was not used by the companies under investigation during the review period.

C. Monetary Authority of Singapore Rediscount Facility and Working Capital Loan Fund of the Development Bank of Singapore (DBS)

Petitioners allege that manufacturers, producers and exporters of carbon steel wire rod benefit from preferential financing through the Monetary Authority of Singapore (MAS) which operates a rediscounting facility through which banks are permitted to rediscount qualified pre-export and export bills of exchange. Petitioners also allege that the DBS operates a Working Capital Loan Fund which discounts export bills for up to 120 days at preferential rates.

According to the responses of the government of Singapore, NISM, and Kloeckner, the MAS Export Bill Rediscount Facility was not used during the review period and the DBS does not operate such a "*Working Capital Loan Fund*". The responses indicate that the DBS does participate in a Small Industries Finance Scheme, but that NISM does not qualify for and did not use this scheme during the review period.

D. Singapore Economic Development Board

Petitioners allege that the Singapore Economic Development Board (SEDB) provides assistance to the manufacturers, producers, and exporters of carbon steel wire rod under the following programs:

1. The Capital Assistance Scheme under which the SEDB provides loans at preferential, below-market rates, as well as loan guarantees;
2. The Product Development Assistance Scheme under which the SEDB provides matching grants for financing substantial technical improvements in products or manufacturing processes; and
3. Labor Training which covers training overseas, in-house, and at training centers in Singapore.

According to the responses, neither NISM nor Kloeckner, received any benefits from these programs during the review period.

E. Double Deduction of Export Promotional Expenses

Petitioners allege that firms exporting carbon steel wire rod to the U.S. receive benefits under Singapore tax law which allows a double deduction from gross corporate income of expenses incurred in export promotion. According to the responses of the government of Singapore, NISM, and Kloeckner, this program was not used by the companies under investigation during the review period.

III. Programs for Which Additional Information is Needed

Information on the following programs was first provided to the Department in the government of Singapore and NISM responses. The programs were not alleged by petitioners to provide bounties or grants and the information submitted by respondents is insufficient to determine if a bounty or grant has been bestowed on the product under investigation. Therefore, we determine that additional information is needed on the following programs.

A. Withholding Tax Exemption Under Section 13(2) of the Singapore Income Tax Act

In their responses, the government of Singapore and NISM provided information on the section 13(2)

exemption for withholding taxes. During the review period NISM obtained an exemption from withholding tax on certain interest paid by NISM to an Italian environmental protection device supplier. The response indicates that the section 13(2) exemption applies without preference to any industry or group of industries and that a wide range of industries have participated in this program. However, the information submitted is insufficient to determine if a bounty or grant has been bestowed on the product under investigation.

B. Rebate on Industrial Estate (Jurong Town Corp. "JTC") Rentals

According to the responses of the government of Singapore and NISM, rebates of 5 to 15 percent have been given on JTC warehouse and land rentals and the use of Jurong port facilities for a period of 17 months beginning on August 1, 1985. NISM rents buildings and land from JTC. JTC manages Singapore's industrial estates including Jurong Town in which NISM is located. However, the information submitted is insufficient to determine if a bounty or grant has been bestowed on the product under investigation.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on December 30, 1985 at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests for a hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of the pre-hearing briefs must be submitted to the Deputy Assistant Secretary by December 29, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

November 5, 1985.

[FR Doc. 85-26799 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-501]

Preliminary Affirmative Countervailing Duty Determination; Fuel Ethanol from Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exports of fuel ethanol in Brazil. The estimated net subsidy is 0.84 percent *ad valorem*.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of fuel ethanol from Brazil that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond on entries of this product in an amount equal to the estimated net subsidy as described in the "Suspension of liquidation" section of this notice.

If this investigation proceeds normally, we will make our final determination by January 20, 1986.

EFFECTIVE DATE: November 12, 1985.

FOR FURTHER INFORMATION CONTACT: Alain Letort or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-5050 (Letort) or 377-2438 (Tillman).

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon our investigation, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are bering provided to manufacturers, producers, or exporters of fuel ethanol in Brazil. For purposes of this investigation, the following programs are found to confer subsidies to manufacturers, producers, and exporters of fuel ethanol in Brazil:

- PROALCOOL Industrial Credits.
- Income Tax Exemption for Export Earnings.
- IAA Preferential Financing.

We determine the estimated net subsidy to be 0.84 percent *ad valorem* for all manufacturers, producers or exporters of fuel ethanol in Brazil.

Case History

On February 25, 1985, we received a petition in proper form from the Ad Hoc Committee of Domestic Fuel Ethanol Producers on behalf of the fuel ethanol industry in the United States. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters of fuel ethanol in Brazil directly or indirectly receive benefits which consititute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry. On March 15, the Oil, Chemical and Atomic Workers' International Union joined in support of the petition.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on March 18, 1985, we initiated such an investigation (50 FR 11526). We stated that we expected to issue a preliminary determination by May 21, 1985.

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On April 12, 1985, the ITC preliminarily determined that an industry in the United States is threatened with material injury by reason of imports of fuel ethanol from Brazil (50 FR 15236).

On March 29, 1985, we received information from petitioners which established a reasonable basis to believe or suspect that the products under investigation benefited from upstream subsidies in the form of subsidized sugar cane inputs. On April 23, 1985, pursuant to section 703(h) of the Act, we extended the due date for a preliminary determination to November 4, 1985 (50 FR 16727).

We presented questionnaires concerning the allegations to the government of Brazil in Washington, D.C. on April 15, May 14, June 3, June 17, August 26, and September 2, 1985. We received responses to these questionnaires on June 7, July 26, September 16, and October 21, 1985.

Based on the information contained in the June 7 response, we requested detailed responses from those producers who account for at least 60 percent of the fuel ethanol exported from Brazil to the United States. We also requested responses from the distillers' cooperative and the four trading company exporters through whom the distillers sold ethanol to the United States.

We issued upstream subsidy questionnaires on May 24 and June 17, 1985, and received responses on July 26, September 16, and October 21, 1985. The responding distillers provided us with a list of those sugar cane growers who accounted for the top 60 percent of their supplies of sugar cane in 1984. We requested detailed responses from those sugar cane growers who represent the top 60 percent of this group.

From September 23 to October 11, 1985, we verified the information submitted by the ethanol distilleries, distillers' cooperative, and trading companies. We intend to verify the information submitted by the upstream suppliers of sugar cane inputs before the final determination.

Scope of Investigation

The product covered by this investigation is fuel-grade ethyl alchol (also called fuel ethanol) for use as a motor fuel additive, which is currently classified in the *Tariff Schedules of the United States (TSUS)* under item numbers 427.88, 430.10, 430.20, and 432.10. Ethanol, when imported to be used as a fuel or in producing fuel, is subject to additional duties under TSUS item number 901.50.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits under a program, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of the preliminary determination, the period for which we are measuring subsidization ("the review period") is calendar year 1984.

Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following.

I. Programs Preliminarily Determined to Confer Subsidies

We preliminarily determine that subsidies are being provided to manufacturers, producers, or exporters in Brazil of fuel ethanol under the following programs.

A. PROALCOOL Industrial Credit

Petitioners have alleged that, subject to the approval of the Comissao Executiva Nacional do Alcool (CENAL), PROALCOOL offers long-term financing at preferential rates for the construction, expansion, and modernization of ethanol production and storage facilities.

In its response, the government of Brazil stated that the administering authority for the PROALCOOL program is the Comissao Nacional Executiva do Alcool (CENAL). Private companies that wish to produce ethanol must submit a project to CENAL for approval; once approval is secured, the company may obtain start-up credits under PROALCOOL. It will then receive production quotas for sugar cane and alcohol from the Instituto do Açucar e do Alcool (IAA).

Projects eligible for PROALCOOL financing include:

- Establishment, expansion, or modernization of a distillery;
- Installation of an agricultural storage facility;
- Production of raw materials for use in ethanol production;
- Research and support for the production of raw materials;
- Innovation and improvement of the technology related to the production and use of ethanol; and
- Irrigation.

CENAL also takes into account the location and dimension of each project.

Once a project is approved, the producer becomes eligible for (1) PROALCOOL credit lines administered by the Banco do Brasil to finance the start-up costs, and (2) PROALCOOL long-term investment loans, which are to be paid back according to amortization schedules linked to the expected development of production. Ethanol distillers had PROALCOOL long-term loans outstanding during the review period. Typically, these loans were made for a duration of five years with a grace period of one year, in the case of storage facilities, or 12 years with a grace period of 3 to 4 years, in the case of production facilities. The maximum level of eligibility varied depending on the category of borrower and the year in which the loan was taken out. For example, from 1981 onward, the eligibility levels have been 70 percent in the case of an annexed distillery (defined as a distillery owned by a sugar cane producer) or an independent storage facility; 80 percent in the case of an autonomous distillery; or 90 percent in the case of an autonomous distillery established by a cooperative or producer association. The interest rates also varied, depending on the year in which the loan was taken out. In early years of the program, the interest rates were fixed. Since January 1, 1984, the principal amount of PROALCOOL loans has been fully indexed to ORTN, with an interest rate of 5 percent, except for those loans made to borrowers located in certain regions of Brazil (Amazonia, Northeast, State of Espirito Santo, and Vale do Jequitinhonha in the State of Minas Gerais).

To determine whether these loans were made on terms inconsistent with commercial considerations, we compared PROALCOOL interest rates with the interest rates available to all agricultural and agro-industrial enterprises in Brazil, which the government of Brazil provided in its response. We adjusted these interest rates to reflect the difference in eligibility levels between PROALCOOL industrial credits and normal agricultural loans. Using this benchmark, we found that the terms of the PROALCOOL loans are inconsistent with commercial considerations. Because PROALCOOL industrial credits are limited to a specific industry or group of industries, and provide funds to borrowers at interest rates lower than those available from commercial sources, we preliminarily determine that the PROALCOOL loan program confers a domestic subsidy. To calculate the benefit, we applied our long-term loan methodology, and calculated a net subsidy of 0.30 percent *ad valorem*.

B. Income Tax Exemption for Export Earnings

Under Decree-Laws 1158 and 1721, exporters of fuel ethanol are eligible for an exemption from income tax on a portion of profits attributable to export revenue. Because this exemption is tied

to exports and is not available for domestic sales, we determine that this exemption confers an export subsidy. None of the trading company respondents claimed this exemption during the review period. However, several of the respondent distilleries took an exemption from income tax payable in 1984 on a portion of export profits earned in 1983. We allocated the benefit over the total value of all exports by the respondent distilleries to calculate a net subsidy of 0.44 percent *ad valorem.*

C. IAA Preferential Financing

Petitioners allege that the ethanol industry in Brazil has received financing on preferential terms from IAA. In its response, the government of Brazil stated that the distillers' cooperative had received a loan from IAA.

To determine whether this loan was made on terms inconsistent with commercial considerations, we compared the interest rate with the highest long-term interest rate charged during the year the IAA loan was made by the Banco Nacional de Desenvolvimento Econômico e Social (BNDES), as published in our notice of "Final Affirmative Countervailing Duty Determination; Carbon Steel Plate from Brazil" (48 FR 2568). Using this benchmark, we found that the terms of the IAA loan are inconsistent with commercial considerations. Because this loan is limited to a specific enterprise, and provides funds to the borrower at an interest rate lower than those available from commercial sources, we preliminarily determine that the PROALCOOL loan program confers a domestic subsidy. To calculate the benefit, we applied our long-term loan methodology, and calculated a net subsidy of 0.10 percent *ad valorem.*

II. Upstream Subsidies

Petitioners alleged that Brazilian fuel ethanol producers receive an "upstream subsidy" through the purchase of subsidized sugar cane inputs. Under section 771A(a) of the Act, we must apply the following tests in order to determine whether "upstream subsidies" are being paid or bestowed upon the products under investigation:

The term "upstream subsidy" means any subsidy described in section 771(5)(B) (i), (ii), or (iii) by the government of a country that—

(1) Is paid or bestowed by that government with respect to a product (hereafter referred to as an "input product") that is used in the manufacture or production in that country of merchandise which is the subject of a countervailing duty proceeding;

(2) In the judgment of the administering authority, bestows a competitive benefit on the merchandise; and

(3) Has a significant effect on the cost of manufacturing or producing the merchandise.

A. *Domestic Subsidies*

PROALCOOL Agricultural Loans

Petitioners allege that sugar cane growers in Brazil have benefited from long-term financing at preferential interest rates under the PROALCOOL agricultural credit program. In response, the government of Brazil stated that certain sugar cane growers had received long-term agricultural credits from PROALCOOL. These credits were administered by the Banco Central do Brasil (BCB), with commercial, federal, and state banks acting as agents. Until December 1982, sugar cane growers received loans under the PROALCOOL program on terms more favorable than normal agricultural credits, which are also under the BCB's jurisdiction. In December 1982, however, the PROALCOOL program was eliminated; since that date, sugar cane growers have received agricultural credits at the same interest rates and on the same terms as other agricultural producers. Moreover, based on statistics provided in the response, sugar cane does not appear to have received a disproportionate share of agricultural credits in Brazil.

Because PROALCOOL agricultural credits made before 1982 were limited to a specific industry or group of industries at interest rates lower than regular agricultural credits, we preliminarily determine that the PROALCOOL program confers a domestic subsidy. Because agricultural credits made since December 1982 have been available without restriction to the producers of any agricultural product in Brazil, and the legislation does not designate specific products for receipt of financing or establish differing terms for specified products, we preliminarily determine that agricultural credits are available to more than a specific enterprise or industry, or group of enterprises or industries, and hence are not countervailable (*see* our notice of "Final Negative Countervailing Duty Determination: Fresh Cut Flowers from Mexico" (49 FR 15007).

To calculate the benefit from PROALCOOL loans made to sugar cane growers before December 1982, we applied our long-term loan methodology, using regular agricultural credits as our benchmark. We thereby calculated a net subsidy of 0.07 percent, which is *de minimis.*

We examined several other domestic programs which were available to sugar cane suppliers:

• PLANALSUGAR Research and Development Program.
• Regional Research and Development Programs.
• Plantation Roads.
• SUDENE.
• FINEX Export Financing.

The first of these programs is preliminarily determined not to confer a subsidy, and is discussed below in "Programs Preliminarily Determined Not to Confer a Subsidy;" the others are discussed in "Programs Preliminarily Determined Not to Be Used."

Because the subsidy to upstream suppliers of sugar cane is *de minimis,* the issues of whether (1) this subsidy has a significant effect on the cost of producing fuel ethanol, and (2) the subsidy confers a competitive benefit on fuel ethanol from Brazil are moot. Accordingly, we preliminarily determine that no upstream subsidies are being paid or bestowed on fuel ethanol.

III. Programs Preliminarily Determined Not To Confer a Subsidy

We preliminarily determine that subsidies are not being provided to manufacturers, producers, or exporters in Brazil of certain fuel ethanol under the following programs.

A. Research and Development Assistance

Petitioners allege that, under the aegis of the Programa, Nacional do Alcool (PROALCOOL) and the Programa Nacional de Melhoramento da Cana-de-Açucar (PLANALSUCAR), the government of Brazil provides research and development assistance aimed primarily at increasing the saccharose content of sugar cane and developing higher-yield and disease-resistant strains of sugar cane, and increasing the productivity of Brazilian distilleries.

In response, the government of Brazil has stated that research and development assistance is not restricted to the sugar cane and ethanol industries, but is available to all sectors of Brazilian agriculture under different programs. In addition, all research papers generated under the PROALCOOL and PLANALSUCAR programs are published and made available to all interested parties, not only in Brazil but also in other countries, including the United States. Therefore, we preliminarily determine that this program does not confer a subsidy.

B. Government Equity Infusions and Capital Assistance

Petitioners allege that BNDES-Participacoes S.A. (BNDESPAR), a holding company subsidiary of BNDES, and its predecessor Investimentos Brasileiros S.A. (IBRASA) have

provided equity capital, purchased debentures, and guaranteed securities to promote the capitalization of the Brazilian fuel ethanol industry, and that such equity investment was made on terms inconsistent with commercial considerations.

In its response, the government of Brazil stated that IBRASA/BNDESPAR have held a small equity position (less than five percent of the stock) in one ethanol distiller since 1981. IBRASA/BNDESPAR have acquired this equity position as a result of a public stock offering, on the same terms and conditions as those afforded to private commercial banks. Therefore, we preliminarily determine that BNDESPAR equity holding does not confer a subsidy.

IV. Programs Preliminarily Determined Not to be Used

We preliminarily determine that manufacturers, producers or exporters of fuel ethanol in Brazil did not use the following programs which were listed in our notice of "Initiation of a Countervailing Duty Investigation; Fuel Ethanol from Brazil" (50 FR 11526).

A. PETROBRAS Storage Assistance

Petitioners allege that PETROBRAS has provided storage facilities to Brazilian distilleries and cooperatives at non-commercial rates.

In its response, the government of Brazil claims that PETROBRAS storage assistance is provided on a commercial basis, subject to contractual fees and penalties similar to those of other storage facilities, and that for the most part the distilleries use their own storage tanks. Therefore, we preliminarily determine this program was not used.

B. PETROBRAS Preferential Payment Terms

Petitioners allege that PETROBRAS has offered distilleries in Brazil preferential payment terms for deliveries of ethanol, which may have constituted interest-free loans.

In its response, the government of Brazil states that PETROBRAS usually pays for ethanol purchased from the respondents fifteen days after receipt of the invoice, which is normal commercial practice in Brazil. Accordingly, we preliminarily determine this program was not used.

C. Regional Development Programs

Petitioners allege that ethanol distillers in the Northeast of Brazil are subsidized under the following federal and state programs.

1. *Cost Equalization Program.* Petitioners allege that, under this program, the IAA makes cash payments to fuel ethanol producers located in the states of Alagoas, Espirito Santo, Minas Gerais, Paraiba, Pernambuco, Rio de Janeiro, and others.

2. *SUDENE.* Petitioners allege that a government agency known as the Superintendência do Desenovolvimento do Nordeste (SUDENE) extends tax credits, exemptions, and other benefits to companies operating or investing in the Northeast of Brazil.

In its response, the government of Brazil stated that none of the companies from which we requested responses are located in any of the regions eligible for special assistance; accordingly, we preliminarily determine these two programs were not used.

D. IAA and Other Government Loan Guarantees

Petitioners allege that the IAA and other Brazilian government agencies have guaranteed loans taken out by certain fuel ethanol producers and cooperatives.

In its response, the government of Brazil stated that none of the companies from which we requested responses had received loan guarantees from the IAA or any other agency; accordingly, we preliminarily determine this program as not used.

E. Restructured IAA Loans

Petitioners allege that certain loans taken out by ethanol distilleries and cooperatives have been restructured with IAA assistance.

In its response, the government of Brazil states that no such loan restructuring has taken place. Accordingly, we preliminarily determine this program was not used.

F. Accelerated Depreciation for Brazilian-Made Capital Equipment

Petitioners allege that, pursuant to Decree-Law 1137, any company which purchases Brazilian-made capital equipment and has an expansion project approved by the CDI may depreciate this equipment at twice the rate normally permitted under Brazilian tax laws.

In its response, the government of Brazil stated that none of the respondents had used this tax provision during the review period. Accordingly, we preliminarily determine that this program was not used.

G. Preferential Working-Capital Financing for Exports

Petitioners allege that certain respondents have received preferential export financing from the Carteira do Commercio Exterior (Foreign Trade Department, or CACEX) of the Banco do Brasil, which administers a program of short-term working-capital financing. During the review period, these working-capital loans were provided under Resolution 882 of the Banco Central do Brasil. On August 21, 1984, Resolution 882 was superseded by Resolution 950.

The government of Brazil stated in its response that exporters of the product under investigation are not eligible for this type of financing; accordingly, we preliminarily determine that this program ws not used.

H. Export Financing Under the CIC–CREGE 14–11 Circular.

Petitioners allege that certain respondents may have obtained preferential export financing under the Banco do Brasil's CIC–CREGE 14–11 circular.

In its response, the government of Brazil stated that none of the respondents received this form of financing during the review period; accordingly, we preliminarily determine that this program was not used.

I. FINEX Export Financing

Petitioners allege that certain respondents, as well as importers of fuel ethanol from Brazil in the United States, may have received preferential export financing under Resolution 68 of the Conselho Nacional do Comércio Exterior (CONCEX).

In its response, the government of Brazil stated that the product under investigation is ineligible for FINEX financing. Accordingly, we preliminarily determine that this program was not used.

J. Resolution 330 of the Banco Central do Brasil

Petitioners allege that certain respondents may have benefited from Resolution 330 of the Banco Central do Brasil, which provides financing for up to 80 percent of the value of the merchandise placed in a specified bonded warehouse and destined for export.

In its response, the government of Brazil stated that none of the respondents participated in this program during the review period. Accordingly, we preliminarily determine this program was not used.

K. Exemption of IPI Tax and Customs Duties on Imported Equipment (CDI)

Petitioners allege that certain respondents may have participated in the CDI program, under which

companies may receive an exemption of 80 to 100 percent of customs duties and IPI tax on certain imported machinery. The recipient must demonstate that the machinery or equipment for which an exemption is sought was not available from a Brazilian producer. The investment project must be deemed to be feasible and the recipient must demonstrate that there is a need for added capacity in Brazil.

In its response, the government of Brazil stated that none of the respondents were eligible to participate in this program during the review period. Accordingly, we preliminarily determine this program was not used.

L. The BEFIEX Program

Petitioners allege that exporters of fuel ethanol may have received benefits from the Comissao para a Concessao de Beneficios Fiscais a Programas Especiais de Exportaçao (Commission for the Granting of Fiscal Benefits to Special Export Programs, or BEFIEX), which grants certain tax benefits to Brazilian exporters.

In its response, the government of Brazil stated that none of the respondents participated in this program during the review period. Accordingly, we preliminarily determine this program was not used.

M. The CIEX Program

Petitioners allege that certain exporters of fuel ethanol may have received tax benefits from the Comissao para Incentivos à Exportaçao (Commission for Export Incentives, or CIEX) under Decree-Law 1428.

In its response, the government of Brazil stated that none of the respondents participated in this program during the review period. Accordingly, we preliminarily determine this program was not used.

N. Incentives for Trading Companies

Petitioners allege that, under Resolution 883 of the Banco Central do Brasil, trading companies may obtain export financing similar to that obtained by manufacturers under Resolutions 882 and 950.

In its response, the government of Brazil stated that none of the respondents participated in this program during the review period. Accordingly, we preliminarily determine this program was not used.

O. The PROEX Program

Petitioners allege that exporters of fuel ethanol may have benefited from short-term export credits under the Programa de Financiamento à Produçao para a Exportaçao (PROEX), previously referred to as the Apôio à Exportaçao program.

In its response, the government of Brazil stated that none of the respondents participated in this program during the review period. Accordingly, we preliminarily determine this program was not used.

P. Plantation Roads

Petitioners allege that sugar cane growers in the Northeast of Brazil have benefited from plantation roads built at government expense for their exclusive use.

In its response, the government of Brazil stated that none of the respondents are located in the Northeast of Brazil. Therefore, we preliminarily determine this program was not used.

Q. Regional Research and Development Programs

Petitioners allege that ethanol distillers and sugar cane growers located in the northeastern Brazilian states of Alagoas and Pernambuco have benefited from certain state-run research and development programs.

In its response, the government of Brazil stated that none of the respondents are located in the states of Alagoas and Pernambuco. Therefore, we preliminarily determine that these programs were not used.

R. FUNPROCUCAR

Petitioners allege that certain ethanol distillers have received preferential financing under the heading of FUNPROCUCAR. According to the government of Brazil, the now-terminated FUNPROCUCAR program was administered jointly by the Instituto do Açucar e do Alcool (IAA) and the Banco do Brasil throughout the 1970's.

Although several respondents did receive long-term financing on preferential terms under the FUNPROCUCAR program, these loans were tied to the expansion of production facilities of refined sugar, a product which is neither under investigation nor used as an input for the product under investigation. Therefore, we preliminarily determine this program was not used.

V. Program Preliminarily Determined to have been Terminated

IPI Export Credit Premium

Until very recently, Brazilian exporters of manufactured products were eligible for a tax credit on the Imposto sobre Produtos Industrializados (Tax on Industrialized Products, or IPI). The IPI export credit premium, a cash reimbursement paid to the exporter upon the export of otherwise taxable industrial products, was found to confer a subsidy in previous countervailing duty investigations involving Brazilian products. After having suspended this program in December 1979, the government of Brazil reinstated it on April 1, 1981.

Subsequent to April 1, 1981, the credit premium was gradually phased out in accordance with Brazil's commitment pursuant to Article 14 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"). Under the terms of Ministry of Finance "Portaria" (Notice) No. 176 of September 12, 1984, the credit premium was eliminated effective May 1, 1985. According to the government of Brazil, none of the fuel ethanol producers received the IPI export credit premium after that date.

Accordingly, consistent with our stated policy of taking into account program-wide changes that occur subsequent to the review period but prior to our preliminary determination, we preliminarily determine that this program has been terminated, and no benefits under the program are accruing to current exports of fuel ethanol to the United States.

VI. Program for Which Additional Information is Needed

Government Debt and Equity Infusions in PETROBRAS

Petitioners allege that the ethanol-related activities of the predominantly state-owned energy conglomerate Petroleos do Brasil S.A. (PETROBRAS) are unprofitable, and that the government of Brazil's debt and equity infusions in PETROBRAS, which are inconsistent with commercial considerations, are enabling the conglomerate to continue in its support of the Brazilian ethanol industry.

PETROBRAS, however, does not export fuel ethanol from Brazil to the United States. Instead, fuel ethanol is exported by INTERBRAS, a trading company which is a separately incorporated subsidiary of PETROBRAS. In its response, the government of Brazil states that PETROBRAS has not received government equity infusions since 1976, the year in which INTERBRAS was incorporated. In addition, we reviewed INTERBRAS' financial statements since 1976, and it appeared that the company was profitable. Since we have no evidence on the record that any government debt and equity infusions into PETROBRAS were passed through to INTERBRAS, and since PETROBRAS'

investment in INTERBRAS does not appear to have been made on terms inconsistent with commercial considerations, we are reserving our decision on this matter. We will seek more information on government debt and equity infusions into PETROBRAS before making our final determination.

Preliminary Negative Determination of Critical Circumstances

Petitioners allege that imports of fuel ethanol from Brazil present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that (1) the alleged subsidy is inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code"), and (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Based upon our analysis, the only export subsidy bestowed upon fuel ethanol in Brazil is *de minimis*. Accordingly, we preliminarily determine that this subsidy is not inconsistent with the Subsidies Code.

Additionally, in preliminarily determining whether there is a reasonable basis to believe or suspect that there have been massive imports over a relatively short period of time, we normally consider the following factors: (1) Whether recent imports have increased significantly; (2) whether recent import penetration ratios have increased significantly; (3) whether the pattern of recent imports may be explained by seasonal factors; and (4) whether recent imports are significantly above imports calculated over the last three years.

In this case, information on the record indicates that imports of the subject merchandise have not surged over a relatively short period of time within the meaning of section 703(e) of the Act. Therefore, for the reasons described above, we preliminarily determine that "critical circumstances" do not exist with respect to fuel ethanol from Brazil.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all unliquidated entries of fuel ethanol from Brazil which are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**, and to require an *ad valorem* cash deposit or bond for each such entry of this merchandise of 0.84 percent *ad valorem*. This suspension will remain in effect until further notice.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept any statement in the response for our final determination that cannot be verified.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to a U.S. industry 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is latest.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on December 16, 1985, at the U.S. Department of Commerce, room 6802, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by December 9, 1985. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination, or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

November 4 1985.

[FR Doc. 85-26800 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Kerex, Inc. This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. No. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register**. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products

Portable kerosene heaters.

Releated Services

Consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign

exchange, financing, and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

(a) Kerex may agree with its Members that

(1) Kerex will not represent in the Export Markets any competitor of its Members as an Export Intermediary unless authorized by them,

(2) No Member will sell, directly or indirectly through any other Intermediary, into the Export Markets in which Kerex represents the Member as an Export Intermediary and, if such sales do occur, the Member will pay a commission to Kerex, or

(3) Any combination of (1) and (2) above.

(b) Kerex may allocate opportunities to fill export orders among the Members. Kerex may not require any Member to accept any order for sale or to export any minimum quantity of Products. Kerex may not set or suggest any target level of exports for any Member. Each Member shall retain absolute discretion to determine the quantities and prices of Products if offers to export or sell through Kerex for or in the Export Markets.

(c) Kerex may agree with Export Intermediaries

(1) That Kerex will deal in specified Export Markets only through the Export Intermediary,

(2) That Export Intermediaries will not represent Kerex's competitors in the Export Markets or buy from Kerex's competitiors for resale in the Export Markets, or

(3) Both (1) and (2) above.

(d) Kerex may enter into exclusive and nonexclusive agreements with individual buyers in the Export Markets to act as a Purchasing Agent with respect to particular transactions.

(e) To the extent not inconsistent with other provisions of this certificate, Kerex may, for itself or while acting as an Export Intermediary for Members, nonmember Suppliers or buyers,

(1) Establish prices, quantities, and other terms of purchase or sale at which Products or Related Services will be acquired or sold by Kerex for or in the Export Markets,

(2) Allocate foreign territories or customers among or between Kerex's Export Intermediaries, Members or Members' Export Intermediaries, or

(3) Any combination of (1) and (2) above.

Kerex may engage in these activities only on the basis of its own determination or on the basis of any agreement between it and one of its Members, nonmember Suppliers or Export Intermediaries, provided that Kerex may not make participation in any export sale conditional on any Member's participation in any other past or future export sales.

Kerex may not enter or engage in any agreement with more than one of its Members on any matter specified in this paragraph (e).

(f) Kerex may prescribe the following conditions for membership and membership withdrawal:

(1) Kerex may limit membership to those firms that pay a stock subscription fee and are also members of the National Kerosene Heater Association, which only requires payment of dues for membership.

(2) Kerex may require a withdrawing member to offer to sell its common stock in Kerex (i) to Kerex at book value for thirty days after notice of withdrawal and (ii) after that period, to any other Member for an additional thirty days.

(g) Kerex may collect information from and communicate information to its Members regarding the following:

(1) Any Member's or nonmember Supplier's past, current or possible future costs relating exclusively to the sale of the Products for the Export Markets about: Ocean freight, inland freight to the dock, dock wharfage and handling charges, insurance agent's commissions, export sales documentation and service, export sales financing and similar costs;

(2) Any market share in any Export Market of Kerex or any nonmember Supplier;

(3) Any market strategy or activity in the Export Markets of any nonmember Supplier of the Products to the Export Markets;

(4) Currency exchange rates and tariffs, tax, dumping and other regulations affecting sales to any Export Market; and

(5) Any general economic or business conditions within any Export Market.

(h) Kerex may obtain the following information from each Member, but neither Kerex nor a Member that provides information may disclose that information to any other Member:

(1) Past, present or projected levels of supply or demand solely in any Export Market for the Products;

(2) The present or projected amount of Products that the Member is willing to commit for export from the United States to any Export Market and the amount available for any Export Market from areas outside the United States;

(3) Any data regarding inventories of Products that are located outside the United States and that are in the possession of export customers or of the Member or other Supplier to any Export Market;

(4) Any past, present or possible future price of the Products for any Export Market, including any price currently being charged or planned to be charged by the Member to any customer for Products for any Export Market or any data reported in a publication (other than one authored by Kerex or the Member) regarding past or present prices of Products in the United States insofar as such data relate to the sale of Products to specific Export Markets served by Kerex or any Member; and

(5) Identification of a particular customer in any Export Market and information regarding any past, present or possible future transaction with that customer involving Products.

Terms and Conditions of Certificate

(a) Except as provided in paragraph (g) in the Export Trade Activities and Methods of Operation section, Kerex and its Members shall not disclose, directly or indirectly, to any other Member or Supplier any information about any Member's or any Supplier's costs, output, capacity, inventories, prices, sales, orders, terms of domestic marketing or sale, or U.S. business plans, strategies or methods that is not already generally available to the trade or public.

(b) Kerex and its Members will comply with requests made by the Department of Commerce on behalf of itself or the Department of Justice for information or documents relevant to conduct under the certificate. The Department of Commerce will request such information or documents when either the Department of Justice or the Department of Commerce believes it requires the information or documents to determine that the Export Trade, Export Trade Activities or Methods of Operation of the persons protected by this certificate of review continue to comply with the standards of section 303(a) of the Act.

(c) Kerex shall operate through its directors, officers and employees. No director, officer or employee of a Member of Kerex or of a company affiliated with a Member of Kerex may

serve as a director, officer or employee of Kerex.

(d) This certificate is conditioned upon Kerex not engaging in any activity prohibited by any provision of the "Export Trade Activities and Methods of Operation" section of this certificate.

Definitions

For purposes of this certificate, the following terms are defined:

(a) "Member"—Aladdin Energy Products, Inc., a subsidiary of Aladdin Industries, Inc., Nashville, TN; AMCA International (Consumer Products Division), Bowling Green, KY; GLO International Corp., a subsidiary of Rival Mfg. Co., Kansas City, MO; Kupanoff & Associates, Inc., a subsidiary of Drew National Corp., White Plains, NY; Panasonic Industrial Co., a subsidiary of Matsushita Electric Industrial Co., Ltd., Osaka, Japan; Robeson Industries Corporation, Mineola, NY; Sanyo Electric, Inc., Little Ferry, NJ; Teknika Electronics Corp., a subsidiary of C. Itoh America, Inc., New York, NY; Toyotomi American, Inc., a subsidiary of Toyotomi Kogyp Co., Ltd., Nagoya, Japan; or Turco Manufacturing Company, DuQuoin, IL.

(b) "Export Intermediary" or "Intermediary" means:

(1) "Broker"—a person that locates buyers in the Export Markets for the Supplier or that locates Suppliers for buyers in the Export Markets on a straight commission or cost-plus commission basis and that, in so acting, offers, provides or engages in some or all Related Services;

(2) "Distributor"—a person that purchases or sells Products for its own account, that may establish the resale price or maintain an inventory of such Products for prospective, unidentified sales and that, in so acting, offers, provides or engages in some or all Related Services; or

(3) "Sales Representative or Agent"—a person that identifies and locates Products for sale, gives advice on or chooses among prospective buyers in the Export Markets, advises on or negotiates prices, quantities and other sale terms and conditions, sells such Products for its own account or for the account of others and that, in so acting, offers, provides or engages in some or all Related Services.

(c) "Purchasing Agent"—a person that identifies and locates Products for purchase, gives advice on or chooses among prospective Suppliers, advises on or negotiates prices, quantities and other purchase terms and conditions, purchases such Products for its own account or for the account of others and in so acting, offers, provides or engages in some or all Related Services.

(d) "Supplier"—a person that producers or sells Products to be exported from the United States or Related Services.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Dated: November 5, 1985.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 85-26839 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-DR-M

Export Privileges; Piher Semiconductors, S.A.; Order

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), having determined to initiate administrative proceedings pursuant to section 11(c) of the Export Administration Act of 1979, (50 U.S.C. app. 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985)) (the Act), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 368-399 (1985)) (the Regulations) against Piher Semiconductores, S.A. (Piher) Avda San Julian, s/n, Apartado, Correos 177, Granollers (Barcelona), Spain, and Piher International Corporation (Piher International), based on allegations: (1) That Piher violated §§ 387.4, and 387.5 and 387.6 of the Regulations in that, between January 2, 1980 and August 26, 1982, Piher reexported 16 shipments of U.S.-origin semiconductor and integrated circuit manufacturing equipment from Spain to destinations in the Union of Soviet Socialist Republics and in Cuba, without the reexport authorization required by the Regulations, and in that Piher failed to notify the Department concerning changes in material facts from those previously stated in export license applications and (2) that Piher International violated §§ 387.3 and 387.6 of the Regulations in that, between March 5, 1985 and May 29, 1985, Piher International exported three shipments and attempted a fourth shipment from the United States of variable resistors and potentiometers to Hong Kong, in contravention of a Department Order denying export privileges;

The Department and Piher, having entered into a Consent Agreement whereby Piher, on behalf of itself and its affiliate, Piher International, has agreed to settle these matters: (1) By Piher's payment to the Department of a civil penalty, (2) by a denial to Piher of all export privileges for a period of ten years following the date of entry of this Order; (3) by Piher's undertaking certain corrective measures regarding future compliance with the Regulations; (4) by Piher's submitting six reports to the Director, Office of Export Enforcement, and (5) by Piher's making its premises, and its files and records concerning transactions involving U.S.-origin goods and technical data, available to appropriate officials of the United States government, including the Office of Export Enforcement, for periodic inspection upon reasonable notice for a period of five years following the date of entry of this Order, and

The terms of the Consent Agreement having been approved by me in complete settlement of the matter;

It is therefore ordered,

First,

A. Piher shall pay to the Department a civil penalty consisting of the lesser of $740,000 or the amount by which $1,000,000 exceeds the amount of any criminal fine imposed, and for which payment is not suspended, by the United States District Court for the District of Columbia (the "Court") pursuant to the plea agreement of August, 1985, entered into between Piher and the United States. Payment to the Department of any civil penalty imposed shall be made in the manner specified in the attached instructions, as follows:

(1) one-tenth of the total amount of the civil penalty shall be paid within 30 days of the date of entry of this Order;

(2) one-tenth of the total amount of the civil penalty shall be paid one year from the date of entry of this Order;

(3) payment of the remaining balance shall be paid in four annual installments, each equal to one-fifth of the total amount of the civil penalty, on the second, third, fourth and fifth anniversaries of the date of entry of this Order;

B. If Piher fails to pay any installment (or portion of any installment) of any criminal fine imposed by the Court when due, that amount shall become payable to the Department, within 90 days, as a portion of the civil penalty agreed to pursuant to subparagraph 2.a. hereof, provided, however, that the subsequent payment by Piher of the overdue installment or portion thereof of the criminal fine shall reduce the amount of the civil penalty imposed under this subparagraph by the amount of such payment and provided that in no event

shall the civil penalty imposed exceed $740,000;

C. Piher's failure to make timely payment of any civil penalty imposed pursuant to this Order shall constitute a violation thereof;

Second, Piher is denied export privileges as follows:

A. For a period of ten years following the date of entry of this Order, Piher is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data, from the United States or abroad.

B. Without limiting the generality of the foregoing paragraph, participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data, in whole or in part, exported or to be exported from the United States, and subject to the Regulations, and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

C. The last nine years and three months of the ten-year denial period set forth in subparagraph A. above will be suspended pursuant to § 388.16(c) of the Regulations, nine months after the date of entry of this Order. The suspended portion of the denial period will be waived at the end of the ten-year period, provided that Piher, its subsidiaries and affiliates have committed no further violation of the Act, the Regulations, or this Order.

D. Except as provided below, such denials of export privileges shall extend not only to Piher, but also to any and all subsidiaries and affiliates of Piher, identified in Attachment I to this Order, as well as to Piher's agents and employees acting in their official capacities on behalf of Piher, and to its licensees, assignees, and successors. Such denial or export privileges shall not extend to Piher's affiliate, Piher International, in connection with exports from the United States to customers unrelated to Piher;

Third, that Piher shall make Piher's premises, records and files concerning transactions involving U.S.-origin commodities and technical data, available to appropriate officials of the United States Government, including special agents of the Office of Export Enforcement, for periodic inspection during normal business hours, upon reasonable notice of not less than five nor more than 30 days, for a period of five years following the date of entry of this Order;

Fourth, that Piher shall, to the extent it has not already done so, take the measures specified in paragraph 4. of the Consent Agreement, incorporated herein by reference, concerning its future compliance with the Act and the Regulations, and submit, within six months of the date of entry of this Order, a report to the Director, Office of Export Enforcement, stating the corrective measures taken by Piher pursuant to the Consent Agreement;

Fifth, that Piher shall submit five reports to the Director, Office of Export Enforcement, describing the reexports of U.S.-origin equipment Piher has made. Each report shall cover successive 12-month periods following the date of entry of this Order. Piher shall submit each of these reports within two months after the close of each 12-month period, and

Sixth, that the proposed Charging Letters, the Consent Agreement and this Order shall be made available to the public.

This Order is effective immediately.

Entered this 18th day of October 1985.

Theodore Wai Wu,

Deputy Assistant Secretary for Export Enforcement.

Attachment I

Piher S.A., Apartado 177, Granallers (Barcelona), Spain

Piher Servicios Centrales, S.A., Riera Canado s/n, Barcelona, Spain

Piher Navarra, S.A., Tudela, Spain

Piher International Corporation, 903 Feehanville Drive, Mt. Prospect, Illinois 60056

Piher International Corporation, Post Office Box 91969, Chicago, Illinois 60680

Fielsa Grupo-Piher, Apartado 53, Riera Canado 1, Barcelona, Spain

Fielsa, Albala 12, Madrid 17, Spain

Fielsa, Albala 11, Madrid 17, Spain

[FR Doc. 85-26876 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-25-M

Initiation of Antidumping and Countervailing Duty; Administrative Reviews

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received timely requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: November 12, 1985.

FOR FURTHER INFORMATION CONTACT: William L. Matthews or Richard W. Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-5253/2786.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 32556) a notice outlining the procedures for requesting administrative reviews during the anniversary month of a proceeding. The Department has received timely requests, in accordance with §§ 353.53a(a)(1), (a)(2), (a)(3) and 355.10(a)(1) of the Commerce Regulations, for administrative reviews of various antidumping and countervailing duty orders and findings with October anniversary dates.

Initiation of Reviews

In accordance with §§ 353.53a(c) and 355.10(c) of the Commerce Regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than November 30, 1986.

Antidumping Duty Proceeding—Firms and Periods To Be Reviewed

Barium Chloride from the People's Republic of China—China National Chemicals Import & Export Corp. (SINOCHEM), 10/84-09/85; Syrom S.p.A., 10/84-09/85

Pressure Sensitive Plastic Tape from Italy—Manuli Autoadesivi S.p.A., 10/84-09/85

Steel Wire Rope from Japan—Izumi Trading Co. 10/84-09/85

Countervailing Duty Proceeding—Periods To Be Reviewed

Certain Iron-Metal Castings from India—01/84-12/84

Tuna from the Philippines—01/84–12/84

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and §§ 353.53a(c) and 355.10(c) of the Commerce Regulations (19 CFR 353.53a(c), 355.10(c)).

Dated: November 6, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85–26917 Filed 11–8–85; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Indiana; Financial Assistance Application Announcements

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for a 3 year period, subject to available funds. The cost of performance for the first twelve (12) months is estimated at $200,000 for the project performance of April 1, 1986 to March 31, 1987. The MBDC will operate in the Indianapolis, Indiana Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $170,000 in Federal funds and a minimum of $30,000 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services). The award number will be 05-10-86009-01.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDC supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continue funding will be at the discretion of MBDC based on such factors as a MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATE: Closing date: The closing date for applications is December 13, 1985.

ADDRESS: Chicago Regional Office, Minority Business Development Agency, 55 East Monroe Street, Suite 1440, Chicago, Illinois 60603, 312/353–0182.

FOR FURTHER INFORMATION CONTACT: David Vaga, Regional Director, Chicago Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

(11.800 Minority Business Development (Catalog of Federal Domestic Assistance))

David Vega,

Regional Director, Chicago Regional Office.

[FR Doc. 85–26862 Filed 11–8–85; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

Marine Mammals; Permit Modification; Brent Stewart Modification No. 4 to Permit No. 341

Notice is hereby given that, pursuant to the provisions of §§ 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 341 issued to Brent Stewart, Hubbs Marine Research Institute, 1700 South Shores Road, San Diego, California 92109, on June 4, 1981 (46 FR 30679), as modified on November 2, 1981 (46 FR 55129), June 2, 1982 (47 FR 26883), and December 1, 1982 (47 FR 55261), is further modified as follows:

Section B–6 is modified by deleting "December 31, 1985", and substituting the following: "December 31, 1986".

This modification becomes effective on December 31, 1985.

The Permit as modified, and documentation pertaining to the modification is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 4, 1985.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 85–26806 Filed 11–8–85; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Dr. Steven D. Feldkamp

On October 3, 1985, notice was published in the Federal Register (50 FR 40433) that an application had been filed by Dr. Steven D. Feldkamp, Institute of Marine Sciences, University of California, Santa Cruz, California 95064.

Notice is hereby given that on November 4, 1985 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407) and the Fur Seal Act of 1966 (16 U.S.C. 1151–1187), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW. Washington, D.C.;

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802;

Regional Director, Nothwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: November 4, 1985.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 85–26865 Filed 11–8–85; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Interest in Application of Character Recognition to Machine-Assisted Translations of Selected Languages

The National Technical Information Service (NTIS), U.S. Department of Commerce, requests information from potential developers or suppliers of Optical Character Recognition Equipment on the availability and characteristics of equipment capable of producing machine readable output from printed Chinese, Japanese, Spanish, Korean, Arabic and Portuguese language text. Respondents are requested to supply the following types of information:

(a) Availability;
(b) Cost;
(c) Speed;
(d) Error rates in processing various types of input;
(e) Existing interfaces;
(f) Format of input/output;
(g) Characteristics of document handling equipment.

Frederick L. Haynes,
Associate Director for Marketing and Customer Services, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85-26783 Filed 11-8-85; 8:45 am]

BILLING CODE 3510-04-M

COPYRIGHT ROYALTY TRIBUNAL

[Docket Nos: CRT 80-4, 81-1, 82-1, and 83-1]

Order Granting Final Distribution of 1979-1982 Cable Royalty Fees

On October 25, 1985, the Joint Sports Claimants and the Program Suppliers filed a joint motion for final distribution of all of the royalities remaining in the 1979, 1980, 1981, and 1982 cable royalty funds. The movants note that on August 30, 1985, the United States Court of Appeals for the District of Columbia Circuit affirmed the Tribunal on every appeal of the 1979, 1980, and 1982 final determinations. *National Association of Broadcasters v. Copyright Royalty Tribunal*, Nos. 84-1230 et al., (D.C. Cir. August 30, 1985). The movants further note that the time for petitioning the Supreme Court for a writ of certiorari ends November 29, 1985, and that unless such a petition is filed, there is no longer any controversy concerning the 1979-1982 funds. The movants state that they have been advised by all parties, except the Devotional Claimants, that they do not intend to seek Supreme Court review. The movants ask for a distribution on November 21, 1985, or as soon thereafter as practicable, believing that the Devotional Claimants would certainly have decided by November 21 whether to appeal. National Public Radio filed in support of Joint Sports and the Program Suppliers' request.

The Tribunal will grant the movants request for final distribution but not for November 21, 1985. In light of the Tribunal's responsibility not to distribute any funds in controversy, we prefer to wait until the time for appeal has completely passed.

Accordingly, distribution of the remainder of the 1979-1982 cable royalty funds is hereby ordered for December 13, 1985 in the same percentage amounts identified in the Tribunal's Order published at 50 FR 9112 (March 6, 1985) unless any timely petition is filed with the Supreme Court.

FOR FURTHER INFORMATION CONTACT: Edward W. Ray, Acting Chairman, Copyright Royalty Tribunal, 1111 20th Street, NW., Washington, DC 20036, (202) 653-5175.

Dated: November 6, 1985.

Edward W. Ray,
Acting Chairman.

[FR Doc. 85-26825 Filed 11-8-85; 8:45 am]

BILLING CODE 1410-09-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

October 31, 1985.

The USAF Scientific Advisory Board Air Force Electronic Security Command Advisory Group will meet at Kelly AFB, San Antonio, Texas on December 2-3, 1985.

The purpose of the meeting will be to discuss Status of Electronic Combat Data Bases and Information System Security.

The meeting concerns matters listed in section 552(b) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Patsy J. Conner,
Air Force Federal Register Liaison Officer.

[FR Doc. 85-26784 Filed 11-8-85; 8:45 am]

BILLING CODE 3910-01-M

Department of the Navy

Chief of Naval Operations; Executive Panel Advisory Committee; Strategic Planning and the Technology Base Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Planning and the Technology Base Task Force will meet December 3-4, 1985, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to explore the relationship between Navy strategic planning process and the Technology Base. The entire agenda for the meeting will consist of discussions of key issues regarding the integration of technology management with strategic planning and requirements definition and related intelligence. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 928, Alexandria, Virginia 22302-0268. Phone (703) 756-1205.

Dated: November 6, 1985.

William F. Roos, Jr.,
Lieutnant, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 85-26835 Filed 11-8-85; 8:45 am]

BILLING CODE 3810-AE-M

Intent To Prepare a Draft Supplemental Environmental Impact Statement for Modernization and Expansion of Logistic Support Systems at Navwpnsta Earle, Colts Neck, NJ; Amended Notice

Pursuant to the regulations implementing the procedural provisions of the National Environmental Policy Act, Title 40 CFR, the Navy announces modification of its previous Notice of Intent to prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for the proposed modernization

and expansion of Logistic Support Systems at the Naval Weapons Station, Earle, Colts Neck, New Jersey which was published in the Federal Register on May 20, 1985.

The U.S. Army Corps of Engineers has agreed to act as a cooperating agency, pursuant to 40 CFR 1501.6. The Corps of Engineers will be reviewing a Navy permit application for this project pursuant to authorizations found in section 10 of the River and Harbor Act of 1899, section 404 of the Clean Water Act and section 103 of the Marine Protection, Research and Sanctuary Act of 1972.

It is estimated that the DSEIS will be available for public review in March 1986. If further information is required regarding this amended Notice of Intent, please contact Kim DePaul at (215) 897-6262.

Dated: November 6, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, USNR Federal Register Liaison Officer.

[FR Doc. 85-26834 Filed 11-8-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Guaranteed Student Loan Program and Plus Program; Special allowances

AGENCY: Department of Education.

ACTION: Notice of Special Allowance for Quarter Ending September 30, 1985.

SUMMARY: The Asssistant Secretary for Postsecondary Education announces a special allowance to holders of eligible loans made under the Guaranteed Student Loan Program (GSLP) or the PLUS Program. This special allowance is provided for under section 438 of the Higher Education Act of 1965 (the Act), as amended (20 U.S.C. 1087-1). Except for loans subject to section 438(b)(2)(B) of the Act, 20 U.S.C. 1087-1(b)(2)(B), for the quarter ending September 30, 1985, the special allowance will be paid at the following rates:

	Applicable interest rate pet	Annual special allowance rate pet	Special allowance rate pet for quarter ending Sept. 30, 1985
GSLP loans or PLUS loans made prior to Oct. 1, 1981	7	3.875	0.96875
	9	1.875	0.46875
GSLP loans or PLUS loans made on or after Oct. 1, 1981	7	3.84	0.96
	8	2.84	0.71
	9	1.84	0.46
	12	0.00	0.00
	14	0.00	0.00

The Assistant Secretary determines the special allowance rate in the manner specified in the Act, for loans at each applicable interest rate by making the following four calculations:

(a) *Step 1.*

Determine the average bond equivalent rate of the 91-day Treasury bills auctioned during the quarter for which this notice applies;

(b) *Step 2.*

Subtract from the average the applicable interest rate (7, 8, 9, 12, or 14 percent) of loans for which a holder is requesting payment;

(c) *Step 3.*

(1) Add 3.5 percent to the remainder; and

(2) In the case of loans made before October 1, 1981, round the sum upward to the nearest one-eighth of one percent;

(d) *Step. 4.*

Divide the resulting percent in Step 3 (either (c)(1) or (c)(2), as applicable) by four.

FOR FURTHER INFORMATION CONTACT: Nancy Eakin, Program Specialist, or Larry Oxendine, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, Department of Education on (202) 245-2475.

(Catalog of Federal Domestic Assistance No. 84.032, Guaranteed Student Loan Program and PLUS Program)

Dated: November 5, 1985.

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85-26842 Filed 11-8-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GP86-1-000]

Petro-Lewis Corp. v. Trunkline Gas Co.; Complaint

November 5, 1985.

On October 4, 1985, Petro-Lewis Corporation (Petro-Lewis) filed a complaint pursuant to 18 CFR 271.1105(d)(3) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Petro-Lewis alleges that Trunkline Gas Company (Trunkline) violated 18 CFR 271.1104 of the Commission's Regulations based on Trunkline's failure and refusal to reimburse Petrol-Lewis for retroative production-related costs. Petro-Lewis requests that the Production-Related Costs Board (Board) issue an order directing Trunkline to pay the retroactive amounts.

Petro-Lewis states it has sold and is now selling natural gas to Trunkline from East Cameron Block 338 and Vermilion Block 320, Offshore Louisiana under gas purchase contracts dated November 11, 1976, and June 15, 1973, pursuant to a small producer certificate issued in Docket No. CS72-204. Sun Exploration and Production Company (Sun) is the operator of the Offshore Blocks and distributes payments to the working-interest owners including Petro-Lewis. Moreover, Sun, as operator, performs the production-related services on behalf of Petro-Lewis.

Petro-Lewis' complaint is based on its information and belief that:

1. The area rate clauses contained in the pricing provisions of the gas purchase contracts between Petro-Lewis and Trunkline clearly contemplate and provide for the recovery by Petro-Lewis of production-related costs to the extent permitted by the Commission's Order No. 94-A.

2. Trunkline was placed on notice in June 1984 that Petro-Lewis intended to collect both currently and retroactively reimbursement for any production-related costs attributable to its sales of gas to Trunkline in accordance with Section 271.1104 of the Regulations implementing Order No. 94-A.

3. Section 271.1104(c)(1) of the Regulations defines production-related costs "borne by seller" as "costs incurred by the seller in providing a production-related service, or in having other persons provide a production-related service on behalf of the seller." As the operator of East Cameron Block 338 and Vermilion Block 320, Sun performs the production-related service on behalf of Petro-Lewis.

4. As operator of the wells from which gas is sold and delivered to Trunkline, Sun provided Trunkline in June and August of 1984 with most, if not all, of the data required by § 271.1104(f) relative to the production-related service performed by Sun on behalf of Petro-Lewis.

5. On December 18, 1984, Petro-Lewis supplied Trunkline through Sun with the balance of whatever additional data and information was required by

§ 271.1104(f) to authorize the collection by Petro-Lewis of production-related costs pursuant to Order No. 94–A.

6. Contrary to Trunkline's stated reason for refusing payment of the retroactive production-related costs claimed by Petro-Lewis, Petro-Lewis had complied fully with the requirements of § 271.1104(f) of the Regulations prior to December 31, 1984.

7. Trunkline has neither contested nor disputed any of the data supporting the production-related costs submitted by Petro-Lewis or by Sun on its behalf in compliance with § 271.1104(f). Trunkline has, moreover, accepted Btu refunds tendered by Sun on behalf of Petro-Lewis based on volumetric data not questioned by Trunkline.

8. For the foregoing reasons, Trunkline's failure and refusal to reimburse Petro-Lewis for retroactive production-related costs is in clear violation of § 271.1104 of the Commission's Regulations implementing Order No. 94–A.

Petro-Lewis requests (a) that a proceeding be duly instituted pursuant to § 271.1105 of the Regulations before the Production-Related Costs Board for the purpose of considering this complaint by Petro-Lewis against Trunkline, and (b) that the Board issue its order directing Trunkline to pay the amounts claimed by Petro-Lewis attributable to retroactive production-related costs.

Under the Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Trunkline must file an answer to Petro-Lewis' complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Trunkline shall file its answer with the Commission on or before December 5, 1985.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such protests or motions should be filed on or before December 5, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–26794 Filed 11–8–85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8479-001]

Steve Gaber; Surrender of Preliminary Permit

November 4, 1985.

Take notice that Steve Gaber, Permittee for the Damfino Creek Project No. 8479, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8479 was issued on March 15, 1985, and would have expired on October 31, 1986. The project would have been located on Damfino and Quartz Creeks in Whatcom County, Washington.

The Permittee filed the requested on October 15, 1985, and the preliminary permit for Project No. 8479 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth M. Plumb,

Secretary.

[FR Doc. 85–26792 Filed 11–8–85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP86-3-000]

State of Oklahoma, et al.; Thompson "C" No. 1 Well, FERC JD No. 85-02284; Petition To Reopen and Vacate Final Well Category Determination

Issued: November 5, 1985.

Take notice that on October 11, 1985, Cities Service Oil and Gas Corporation (Cities) filed with the Commission, under § 275.205 of the Commission's regulations, a petition to reopen and vacate a final well category determination made pursuant to the Natural Gas Policy Act of 1978 (NPGA) for the Thompson "C" No. 1 well, located in Texas County, Oklahoma. The Oklahoma Corporation Commission determined that the Thompson well qualified as a stripper well under section 108 of the NGPA. Notice of the determination was received by the Commission on October 10, 1984, and became final on November 24, 1984, 45 days following notification, pursuant to § 275.202(a) of the Commission's regulations.

Cities states that the well category application for the well was based on the production period from January through March 1984. In April 1984, production increased significantly resulting in disqualification of the well as a stripper well, effective May 31, 1984. Cities states that its purchaser, Northern Natural Gas Company (Northern), paid the section 108 price during the period from June through September 1984. Cities further states that on August 20, 1985, it refunded all overcharges to Northern in the amount of $26,349.03 principal and $2,988.33 interest.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85–26795 Filed 11–8–85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8644-003]

Pacific Hydropower Co.; Surrender of Preliminary Permit

November 4, 1985.

Take notice that Pacific Hydropower Company, Permittee for the Sunset Falls Project No. 8644, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8644 was issued on March 20, 1985, and would have expired on April 30, 1988. The project would have been located on the South Fork of the Skykomish River in Snohomish County, Washington.

The Permittee filed the request on September 13, 1985, and the preliminary permit for Project No. 8644 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which

case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-26793 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP85-208-000 and CP80-274-011]

Mountain Fuel Resources, Inc.; Informal Conference

November 5, 1985.

Pursuant to the Commission's order issued October 29, 1985, in the above-captioned docket, an informal conference will be convened on Wednesday, November 20, 1985 at 10:00 a.m. in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested persons and Staff will be permitted to attend. Attendance, however, will not serve to make a person a party.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26851 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF85-670-000]

Quality Dinette, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility; Erratum Notice

November 6, 1985.

On September 19, 1985, the Federal Energy Regulatory Commission published a Notice in the Federal Register (Page 38027) for certification as a qualifying cogeneration facility for Quality Dinette, Inc. The Notice incorrectly identified the facility as a cogeneration facility. The Notice should be corrected to identify the facility as a small power production facility.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26844 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA-86-1-7-000]

Southern Natural Gas Co.; Informal Technical Conference

November 5, 1985.

Pursuant to the Commission's order issued September 30, 1985, in the above-captioned docket, an informal technical conference will be convened on Tuesday, November 26, 1985 at 2:00 p.m. in a room to be designated at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

All interested persons and Staff will be permitted to attend.

Lois D. Cashell;

Acting Secretary.

[FR Doc. 85-26852 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL85-19-101]

Snohomish River Basin, WA; Errata Notice

November 6, 1985.

The date for the Technical Session reported in the October 16 "Notice of Intent to Prepare Environmental Impact Statement and Conduct a Scoping Meeting" (50 FR 42996, October 23, 1985) in this docket should be change from November 18-22 to December 3-6, 1985.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26845 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-11-000]

K N Energy, Inc.; Proposed Changes in FERC Gas Tariff

November 4, 1985.

Take notice that K N Energy, Inc., on October 31, 1985 tendered for filing proposed changes in its FERC Gas Tariff, Third Revised Volume No. 1. The proposed change would increase revenues from jurisdictional sales and service by $1,097,262 based on the twelve-month period ending June 30, 1985, as adjusted for known and measurable changes.

K N Energy, Inc. states that the jurisdictional rates filed herewith are designated to enable K N Energy, Inc. to recover increases in its jurisdiction cost of service resulting from:

(1) Additional facilities required to connect new sources of supply and to maintain deliverability from existing sources of supply;

(2) Increased operating costs including higher costs of labor, materials, and supplies;

(3) Increased revenues needed to provide a rate of return of 12.92% on its utility investment; and

(4) Increased income and other taxes.

Copies of the filing were served upon the Company's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26846 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-54-000, 001]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

November 4, 1985.

Take notice that on October 29, 1985, Louisiana-Nevada Transit Company (Louisiana-Nevada) tendered for filing the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

Tenth Revised Sheet No. 4 Superseding Ninth Revised Sheet No. 4

The proposed changes reflect a purchased gas cost adjustment under Louisiana-Nevada's Rate Schedules G-1 and X-2. The changes provide for a total adjustment of 15.81 cents per Mcf, including a deferred gas cost adjustment of 6.98 cents per Mcf, to amortize a deferred balance, and a cumulative cost of gas adjustment of 8.83 cents per Mcf. An effective date of December 1, 1985 is requested.

Louisiana-Nevada states that copies of this filing were served on its jurisdictional customers and the Arkansas and Louisiana Public Service Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26847 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-7-000]

Mountain Fuel Resources, Inc., Proposed Changes in FERC Gas Tariff

November 4, 1985.

Take notice that on October 31, 1985, Mountain Fuel Resources, Inc. (MFR), tendered for filing and acceptance proposed changes in the following tariff sheets in its FERC Gas Tariff and has requested that they become effective December 1, 1985:

Second Revised Sheet No. 12, First Revised Vol. No. 1;
Third Revised Sheet No. 8, Original Vol. No. 3;
Second Revised Sheet No. 9, Original Vol. No. 3;
Second Revised Sheet No. 10, Original Vol. No. 3.

MFR states that the proposed tariff changes would increase its annual revenues from jurisdictional sales-for-resale and transportation services by approximately $26.9 million based on the 12-month base period ending June 30, 1985, and adjusted for known and measurable changes for the test period ending March 31, 1986.

MFR further states that the principal reasons for the increased rates are increases in operating and maintenance expenses, rate base and related costs and an increase in the overall return on rate base.

MFR also requests any necessary waivers of the Commission's Regulations in order that the filing be accepted and states that copies of the filing were served upon the company's jurisdictional customers and interested state public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211, 385.214). All such motions or portests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties in the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26848 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP81-130-029 and RP83-25-016]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

November 4, 1985.

Take notice that Transwestern Pipeline Company (Transwestern) on October 25, 1985 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet:

Third Revised Sheet No. 38

The above mentioned tariff sheet is being filed pursuant to Article VI of Transwestern's Stipulation and Agreement dated May 9, 1985 in Docket Nos. RP81-130-000, *et al.* and RP83-25 *et al.* which was approved, subject to certain modifications on July 1, 1985. Third Revised Sheet No. 38 sets forth Transwestern's transportation rate to be charged for service under Rate Schedule TS-1 effective November 1, 1985, of $.2861/dth.

On August 27, 1985, Transwestern filed with the Commission Substitute Second Revised Sheet No. 38 which reflected a discounted transportation rate under Rate Schedule TS-1 of $.1682/dth to be effective September 1, 1985. The instant filing is being made in order to supersede the discount rate which became effective September 1, 1985 and to reinstate effective November 1, 1985 the fully stated rate for Rate Schedule TS-1 provided for in Transwestern's tariff.

Copies of this filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26849 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-10-000]

Williston Basin Interstate Pipeline Co.; Proposed Changes in FERC Gas Tariffs

November 5, 1985.

Take notice that on October 31, 1985, Williston Basin Interstate Pipeline Company, (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed proposed changes in rates applicable to its jurisdictional gas sales and transportation customers. The proposed changes would increase revenues from jurisdictional sales and services by $15,448,080 based on the 12-month period ending June 30, 1985, as adjusted.

More specifically, Williston Basin filed a First Revised Volume No. 1, Original Volume No. 1-A, and revisions to Original Volume No. 2, Third Revised Sheet No. 10, Original Sheet No. 10A, Third Revised Sheet No. 11, Original Sheet No. 11A, and cancellation of Original Sheet Nos. 20 through 30. The proposed effective date is December 2, 1985.

Williston Basin states that it is faced with declining sales due to conservation and competition with alternative fuels or alternative suppliers of natural gas. Williston Basin claims it has taken significant steps to maintain its sales levels including the renegotiation of its gas purchase contracts which have resulted in substantial decreases in its sales rates. Williston Basin has also initiated transportation programs to increase the utilization of its pipeline system and to meet the needs of its customers.

Williston Basin asserts that in spite of these efforts, the volumes sold have declined. Williston Basin further states that its transportation activities are expected to continue at substantially the same levels as currently being proposed, in terms of the volume handled and the number of transactions.

The filing indicates Williston Basin has experienced increases in most areas of its cost of service as well as the decreases in the level of sales discussed above.

The filing indicates that the rate schedules and other material to be

contained in the FERC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 1-A, as proposed, will place Williston Basin in a competitive position in the market place in order to meet the needs of its customers. The proposed tariff, it is said, would provide greater flexibility in rates and services than is now available. Consequently, Williston Basin states it was virtually required to file for changes to its jurisdictional rates.

The following are the major aspects of the proposed sales rates in First Revised Volume No. 1:

G-1, General Service. This rate schedule will apply to distributor customers desiring full or partial requirements firm sales service. Based on current customers, this rate will be available to Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc. (Montana-Dakota) (one service agreement for each of the states of Montana, North Dakota, South Dakota and Wyoming) Wyoming Gas Co., Byron Natural Gas Utility (Byron), Frannie-Deaver Utilities (Frannie), and Northern Utilities Division (Northern). However, Byron, Frannie and Northern would also have the option of service under Rate Schedule SGS-1. The rate will feature a four-part structure consisting of:

(1) A monthly demand quantity (MDQ) charge specified in dollars and cents per Mcf based on a maximum daily quantity as established by service agreements;

(2) A monthly annual entitlement quantity (AEQ) specified in cents per Mcf of AEQ and applied each month to the AEQ;

(3) The commodity non-gas charge specified in cents per dekatherm of gas purchased;

(4) Commodity gas charge specified in dollars and cents per dekatherm of gas purchased;

To implement and bill the rate, the customer must contract for his desired level of reserved firm daily and annual capacity (MDQ) and AEQ). A minimum bill equivalent to the two demand charge components is proposed.

SGS-1, Small General Service. This rate schedule will apply to small distributor customers desiring full or partial requirements firm sales service. The rate would be offered as an option to any customer who would otherwise take the revised G-1 service proposed in the instant filing, and whose Maximum Daily Quantity (MDQ) does not exceed 1,000 Mcf. The rate will consist of a two-part structure consisting of:

(1) A commodity non-gas charge specified in dollars and cents per dekatherm of gas purchased.

(2) A commodity-gas charge specified in dollars and cents per dekatherm of gas purchased.

E-1, Emergency Service. This rate schedule will apply to any customer who desires service on an emergency basis. The rate will feature a straightline rate and will be set at the unit average charge under the SGS-1 rate schedule plus $.10 per dekatherm. Service under this rate schedule will be firm, but subservient to the firm requirements of regular customers. Williston Basin will have sole discretion to determine whether it has sufficient gas supply and pipeline capacity to render the service.

I-1, Interruptible Service. This rate schedule is available to any distributor customer taking service under the G-1 or SGS-1 rate schedules and will apply to interruptible volumes of gas resold to contract industrial customers (as at present) and national defense installations having a maximum daily interruptible load of at least 1,000 Mcf. The rate features a two-part volumetric structure (commodity gas and non-gas) and is equivalent in level to the commodity gas and commodity non-gas components of the G-1 rate.

With regard to Original Volume No. 1-A, the following are the major aspects of the proposed transportation rate schedules:

SDT-1, Sales Displacement Transportation—Firm. This rate schedule will apply to any party who desires a firm transportation service in order to serve an end-user or distributor who was a sales customer of Williston Basin since September 22, 1980 (the date that Williston Basin's predecessor, MDU Resources Group, Inc. lifted its gas supply curtailment), or for gas requirements that would otherwise be purchased, directly or indirectly, from Williston Basin. The rate will require the specification of an MDQ and AEQ and will provide that a concomitant release (volume reduction) of sales AEQ may be required so that Williston Basin is not obligated to provide more service than was originally included only in the sales service. The SDT-1 rate will feature a three-part structure consisting of the following components specified at a level equivalent with G-1 sales:

(1) A monthly MDQ charge specified in dollars and cents per Mcf of MDQ;

(2) A monthly AEQ demand charge specified in cents per Mcf of AEQ and applied each month of the AEQ;

(3) The commodity non-gas charge specified in cents per dekatherm of gas transported.

In addition, the shipper must arrange for a waiver of Williston Basin's potential take-or-pay liability associated with the displaced sales volumes. A minimum bill equivalent to the two demand charge components is proposed. All transportation service will be provided on a thermally balanced basis and all imbalances will be eliminated every 12 months.

SDT-2, Sales Displacement Transportation—Interruptible. This rate schedule will apply to any party who desires interruptible transportation service in order to serve an end-user or distributor who was a sales customer of Williston Basin, since September 22, 1980, purchasing gas for interruptible purposes or for gas requirements that would otherwise be purchased, directly or indirectly, from Williston Basin. The SDT-2 rate will be a straightline rate equivalent to the commodity non-gas component of the I-1 rate. The thermal balancing and take-or-pay waiver provisions of the SDT-1 rate also will apply.

TF-1, New Transportation—Firm. This rate schedule will apply to any party who desires a firm transportation service in order to serve any customer who has not been a direct or indirect sales customer of Williston Basin since September 22, 1980 or for gas requirements that would not otherwise be purchased, directly or indirectly, from Williston Basin. The rate will require the specification of an MDQ and AEQ. The rate will feature the same basic three-part structure as the SDT-1 rate, however, at a lower level since no production or products extraction costs will be included. A minimum bill equivalent to the two demand charge components is proposed for this service.

TI-1, New Transportation—Interruptible. This rate schedule is the interruptible counterpart of the TF-1 rate and will apply to any customer who desires an interruptible transportation service in order to serve any party who has not been a direct or indirect sales customer of Williston Basin since September 22, 1980 or for gas requirements that would not otherwise be purchased, directly or indirectly, from Williston Basin. This rate will feature a single-part volumetric structure and will be established at a rate level that gives due consideration to the marketability of the service, but at a level no higher than the commodity non-gas component of the TF-1 rate, exclusive of storage costs. As to imbalances, the TI-1 rate will be thermally balanced, but will require the elimination of all imbalances every 60 days so as to avoid the implicit use of storage. If a storage service is desired, Williston Basin will provide it pursuant to its S-3 Rate Schedule.

S-2/T-3, Storage and Transportation of Dedicated Gas. The current S-2/T-3

program is proposed to be continued at its current 20¢/Mcf rate, with all terms and conditions to remain as they currently are.

S-3, Storage and Incidental Transportation. This rate schedule applies to the provision of an interruptible storage and incidential transportation service. The rate consists of five components:

(1) Transportation to storage will be billed at one-half of the TI-1 rate per dkt;

(2) An injection charge is specified in cents per Mcf injected;

(3) A monthly capacity charge is specified in cents per Mcf held in storage;

(4) A withdrawal charge is specified in cents per Mcf withdrawn;

(5) Transportation away from storage will be billed at one-half the TI-1 rate per dkt.

T-4, Transportation of Nondedicated Gas. This currently effective T-4 Rate Schedule is proposed to be continued, on a "grandfathered" basis, but with minor modifications. The rate applies only to customers excecuting a T-4 Service Agreement prior to the initial effective date of Original Volume No. 1-A of Williston Basin's FERC Gas Tariff and will be available only through the initial term of those contracts. The rate schedule features two classes of service (unrelated entirely to the current two classes). Service Class I features a straightline volumetric rate equivalent to the TI-1 rate and applies to non-sales displacement transportation as defined in Rate Schedule TI-1. Service Class II features a straightline volumetric rate, but equivalent to the SDT-2. Service Class II applies to sales displacement transportation as defined in Rate Schedule SDT-2. The current two zone rate character of the T-4 rate is to be eliminated, but all other provisions of the rate will remain.

With respect to Original Volume No. 2, the following changes are proposed:

Rate Schedules X-3 and X-6. Rate Schedules X-3 and X-6 for transportation for K N and MIGC, respectively, are to be retained. However, three-part transportation rates are proposed to be established consisting of Maximum Daily Quantity (MDQ) demand charge, Annual Entitlement Quantity (AEQ) demand charge and commodity non-gas charge. The rate levels reflect the unit costs of gathering, storage and transmission included in Rate Schedule TF-1 net of the separate Vida compressor charge. Revenue crediting is proposed for Rate Schedule X-6. Revenue crediting is not proposed for Rate Schedule X-3 because costs are being allocated to the service in the instant proceeding.

Rate Schedule X-5. For Rate Schedule X-5—CIG, the sales rate without storage will consist of three parts; an MDQ demand charge, an AEQ demand charge and a commodity non-gas charge, plus the cost of purchased gas. The storage capacity charge of the S-3 rate will be applied to CIG's gas already held in storage because the gas has been in storage beyond the 1-year maximum contemplated by the original agreement. Revenue crediting is proposed since no test period volumes are included.

Rate Schedule X-9. Transportation of the Frontier inventory will continue at its current level and reflect only the incremental cost of moving the gas off-system.

Rate Schedule X-10. No change is proposed for Rate Schedule X-10, transportation for Wyoming Gas Co. Revenues from this service are credited to the cost of service.

Rate Schedule X-11. No change is proposed for Gas Storage and Clerical Services for Frontier Gas Storage Company.

Rate Schedule X-1. Rate Schedule X-1, standby sales service to Northern Utilities at Riverton, Wyoming, will be cancelled as it is currently unused and unnecessary.

Williston Basin states that it is currently providing both firm and interruptible transportation service to shippers under specific section 7(c) certificate authorization with corresponding transportation agreements filed in its FERC Gas Tariff, Original Volume No. 2, as rate schedules. It is further stated that Williston Basin has, in the past, provided interruptible transportation service to customers under Part 157 and Part 284 of the Commission's Regulations for which no rate schedule is required. Williston Basin states that some of these existing transportation shippers may prefer service under the new proposed Original Volume No. 1-A tariff to service that is currently provided and that it may be mutually beneficial to both Williston Basin and an existing shipper to negotiate a new agreement which would permit the shipper to convert to the appropriate new rate schedules as proposed.

Williston Basin's rates include the costs of East-of-Bismarck facilities without a separate zone rate. For settlement purposes in Docket Nos. CP82-487-000 *et al.*, all parties agreed to this inclusion. Williston Basin is also proposing to convert to therm billing for all commodity charges. Williston Basin has adopted the modified fixed variable methodology for cost allocation and rate design. Minimum bills proposed are consistent with Order 380.

Williston Basin is concurrently filing a section 7(c) application requesting authority to establish the new sales and transportation tariffs. Williston Basin requests waiver to permit inclusion of these rate schedules in the rate filing prior to the certificate authorization being granted.

Williston Basin states that copies of this filing were served on the Company's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26850 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-5-000]

North Penn Gas Co.; Petition of North Penn Gas Co. for Authority To Institute Direct Billing Procedure for Retroactive Order No. 94 Payments

November 4, 1985.

Take notice that on October 28, 1985, North Penn Gas Company (North Penn) filed a Petition for Authority to Implement A Direct Billing Mechanism To Recover Retroactive Order No. 94 Production-Related Costs. North Penn states that it seeks authorization to bill customers directly for retroactive Order No. 94 costs (1) to match Order No. 94 cost responsibility with customer purchases and (2) to avoid distortions inherent in recovering such costs through purchased gas adjustment filings. As is more fully explained in the filing, North Penn proposes to allocate retroactive Order No. 94 costs based upon each customer's share of North Penn's total sales for the production period over which the Order No. 94 obligation arose and to directly bill the

resulting amounts, including carrying charges and accrued interest.

North Penn requests waiver of Commission regulations, rules and orders to the extent necessary to permit the proposed direct billing mechanism.

North Penn states that it has served a copy of the Petition on its customers, interested state Commissions and others. North Penn also requests expeditious consideration of the Petition and a shortened period for the filing of interventions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26856 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-2-000, 001]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

November 4, 1985.

Take notice that on October 30, 1985, East Tennessee Natural Gas Company (East Tennessee) tendered for filing in Original Volume No. 1 of its FERC Gas Tariff, Substitute Eleventh Revised Sheet No. 4 to be effective July 1, 1985 through September 8, 1985, Third Substitute Twelfth Revised Sheet No. 4 to be effective September 9, 1985 through October 17, 1985, Thirteenth Revised Sheet No. 4 to be effective October 18, 1985 through October 31, 1985 and Fourteenth Revised Sheet No. 4 to be effective November 1, 1985 through December 31, 1985.

East Tennessee states that the purpose of these revised tariff sheets is to track its primary supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.'s gas rate changes effective pursuant to the Commission's October 8, 1985 order in Docket Nos. TA85-9-006 *et al.* and the Commission's October 18, 1985 order in Docket No. TA86-1-9-000. East Tennessee respectfully requests that the Commission grant any waivers of its regulations required in order to make these tariff sheets effective as proposed.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 85-26855 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-170-000]

Texas Eastern Transmission Corp; Petition

November 4, 1985.

Take notice that on October 29, 1985, Texas Eastern Transmission Corporation ("Texas Eastern") filed a petition requesting the Commission to modify its direct billing program to recover direct billing proposal for production-related cost allowances authorized by 18 CFR 271.1104 of the Commission's regulation as promulgated under the Commission's Order No. 94 series. By order dated September 30, 1985, the Commission granted Texas Eastern's petition in Docket No. RP85-170-000 to institute a direct billing for retroactive production-related cost allowances Texas Eastern paid or would soon pay its natural gas suppliers. Texas Eastern requests that it be permitted to modify its billing program to include in the costs to be billed to its customers directly under the direct billing program authorized in this case those amounts it is billed by its pipeline suppliers pursuant to their own authorized direct billing program, as well as those retroactive amounts paid its producer suppliers. Under the proposed plan, Texas Eastern will bill each customer directly for its share of the Order No. 94 payments made by Texas Eastern for periods from July 25, 1980 to April 30, 1985. Texas Eastern will calculate each customer's share of Order No. 94 payments by month based on the ratio of the customer's purchases from Texas Eastern for such month during the retroactive period to the total of all purchases from Texas Eastern for such respective month during the retroactive period. The sums will be directly billed including interest.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motion or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26853 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-11-000, 001]

United Gas Pipe Line Co.; Filing of Revised Tariff Sheets

November 4, 1985.

Take notice that on October 31, 1985, United Gas Pipe Line Company ("United") tendered for filing Seventieth Revised Sheet No. 4 to its FERC Gas Tariff First Revised Volume No. 1. The filing is an out-of-cycle purchased gas adjustment filing being made to reflect certain price reductions obtained through exercise of the market-out provisions of United's contracts with its suppliers or through negotiations with suppliers. United states that the price reductions are to be effective November 1, 1985, and has requested waiver of the notice requirements and PGA filing requirements to permit this out-of-cycle PGA filing also to be effective on November 1, 1985.

United states that the filing is based on the rates and volumes underlying the PGA filing in Docket No. TA85-2-11 which became effective on July 1, 1985, and that the only change to that filing is a change in the rate, and thus the cost, for gas under contracts which either

contain market-out provisions or have been negotiated.

United further states that the total cost reduction attributable to these contracts is $32,775,637 resulting in a rate reduction of 9.73¢ per Mcf.

United reports that it mailed copies of the proposed Tariff Sheets and supporting data to its jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 12, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-26854 Filed 11-8-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44013; FRL-2922-1]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions received by EPA during the third quarter of 1985 from negotiated testing programs accepted by EPA in lieu of requiring testing under section 4 of the Toxic Substances Control Act (TSCA) and from certain other industry testing programs. These submissions include results of certain studies and tests on seven chemical substances or groups of chemicals.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543 401 St., SW., Washington, D.C. 20460. Toll Free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator—800-554-1404).

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the **Federal Register** reporting on any test data received pursuant to test rules promulgated under section 4(a). Although not required by section 4(d), EPA also periodically publishes notices of receipt of data from negotiated testing programs and other industry programs, which might otherwise have been required through test rules. This notice announces test data submissions received during the third quarter of 1985 from such industry testing programs under TSCA.

I. Alkyl Phthalates

The Chemical Manufacturers Association (CMA), on behalf of the Phthalates Esters Program Panel, is conducting testing on a number of alkyl phthalates, alkyl diesters of 1,2-benzenedicarboxylic acid, which are primarily used as plasticizers. The CMA's proposal was accepted by the Agency in lieu of a test rule under section 4 of TSCA and is described in the **Federal Register** of October 30, 1981 (46 FR 53775).

On August 2, 1985, the Agency received the results of an *in vitro* transformation of BALB/3T3 cells assay on diundecyl phthalate (DUP, CAS No. 3648-20-2), diisodecyl phthalate (DIDP, CAS No. 2671-40-0), di(heptyl, nonyl, undecyl) phthalate (711P, CAS No. 39393-37-8), diisononyl phthalate (DINP, CAS No. 28553-12-0), di(n-hexyl, n-octyl, n-decyl) phthalate (610P, CAS No. 25724-58-7), benzyl butyl phthalate (BBP, CAS No. 85-68-7), dibutyl phthalate (DBP, CAS NO. 84-74-2), dimethyl phthalate (CAS No. 131-11-3). Additionally, a previously unreported *in vivo* metabolism study on di-2-ethylhexyl phthalate (DEHP, CAS No. 117-81-7) received in September 1984 is acknowledged.

II. Bis(2-Ethylhexyl) Terephthalate

Eastman Kodak Company is conducting a testing program on bis(2-ethylhexyl) terephthalate (DOTP, CAS No. 6422-86-2), a plasticizer for polyvinyl chloride and related plastics. This program was accepted by the Agency in lieu of rulemaking under section 4 of TSCA, and is summarized in the **Federal Register** of June 4, 1984 (49 FR 23110).

On July 29, 1985, the Agency received the results of an Ames *Salmonella*/ microsome mutagenicity assay, and on September 13, 1985, the results on a 90-day subchronic oral toxicity test on rats.

III. Tris(2-Ethylhexyl) Trimellitate

Eastman Kodak Company is conducting a testing program on tris(2-ethylhexyl) trimellitate (TOTM, CAS No. 3319-31-1) a substance used as a speciality plasticizer in electronics insulation. This program was accepted by the Agency in lieu of a test rule under section 4 of TSCA; details of the program are published in the **Federal Register** of June 4, 1984 (49 FR 23116).

On August 30, 1985, EPA received the results of a CHO/HGPRT Forward Mutation assay.

IV. Oleylamine

The Chemical Manufacturer's Association has voluntarily submitted test data on oleylamine (9-octadecenylamine, CAS No. 112-90-3), an additive to petroleum lubricants or an intermediate in the manufacture of such additives. The test for which data were received was included in the proposed testing requirements published in the **Federal Register** of November 19, 1984 (49 FR 45610).

On August 5, 1985, the Agency received the results of a CHO/HGPRT mutation assay.

V. Bisphenol A

The Society of the Plastics Industry has voluntarily submitted test data on bisphenol A (BPA, CAS No. 80-05-7), a compound used in the manufacture of polycarbonate resins, expoxy resins, polysulfone and phenoxy resins. EPA issued a proposed rule for health and environmental effects testing for BPA on May 17, 1985 (50 FR 20691).

On June 17, 1985, EPA received the results of the following studies: flow-through acute toxicity to fathead minnow, dapnid acute toxicity, algal toxicity, acute aerosol toxicity in rats, 2-week aerosol toxicity in rats, and a determination of BPA in water from freshwater toxicity studies. On September 26, 1985, EPA received the results of a 96-hour acute toxicity to the marine alga *Skeletonema costatum*, flowthrough acute toxicity to mysid (*Mysidopsis bahia*) and Atlantic silverside (*Menidia menidia*), and a detection and measurement of BPA in toxicity tests with saltwater organisms. On September 27, 1985, a revised report was submitted on the algal toxicity test.

VI. Aryl Phosphates

FMC Corporation has voluntarily sumbitted test data on isopropylphenyl phosphate ester (CAS No. 28109-99-8), a member of the aryl phosphates category. This category of chemicals is used primarily as fire-retardant plasticizers and as hydraulic fluids and lubricant additives. EPA issued an Advance Notice of Proposed Rulemaking on

December 29, 1983 (48 FR 57452) on this category.

On August 23, 1985, EPA received the results of a 28-day range-finding test and a 90-day subchronic neurotoxicity feeding study on domestic hens. A *Drosophila* SLRL mutagenicity study was also submitted.

VII. Propylene Oxide

Dow Chemical U.S.A., Arco Chemical Co., and Shell International Petrochemical Co. have voluntarily sponsored testing on propylene oxide (CAS No. 75-56-9), a chemical intermediate, solvent stabilizer, and sterilant for plastic medical equipment and foodstuffs. The test for which data was submitted was included in the proposed testing requirements published in the **Federal Register** of January 4, 1984 (49 FR 430).

On July 11, 1985, EPA received the results of a 2-generation inhalation reproduction study in rats.

VIII. Public Record

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS-44013). This record includes copies of all studies reporterd in this notice. The record is available for inspection from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays, in the OPTS reading room, E-107, 401 M St., SW., Washington, D.C. 20460.

Dated: November 5, 1985.

Timothy R. Titus,

Acting Director, Existing Chemical Assessment Division.

[FR Doc. 85-26812 Filed 11-8-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 15 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-009548-032

TITLE: United States Atlantic and Gulf Ports/Eastern Mediterranean and North African Freight Conference Agreement

PARTIES:

Farrell Lines, Inc.
Lykes Bros. Steamship Co., Inc.
Pharos Lines, S.A.
Prudential Lines, Inc.
Waterman Steamship Corporation

SYNOPSIS: The proposed amendment would expand the scope of the agreement to include movements from and via U.S. Great Lakes ports and minilandbridge movements from U.S. Pacific coastal points.

Agreement No.: 202-010848

TITLE: North Europe-Virgin Islands Rate Agreement

PARTIES:

Trans Freight Lines, Inc.
Tropical Shipping Co., Ltd.

SYNOPSIS: The proposed agreement would establish a conference agreement between the parties in the trade between ports and points in the United Kingdom, the Republic of Ireland and North Europe, and ports and points in the U.S. and British Virgin Islands. The parties will maintain separate tariffs and may, as a rate agreement, or individually, enter into service contracts with shippers.

By Order of the Federal Maritime Commission.

Dated: November 6, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-26865 Filed 11-8-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Reissuance of License

Notice is hereby given that the following ocean freight forwarder licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License No.	Name/Address	Date Reissued
2665	Farrell Transportation, Corporation, 155-06 South Conduit Ave., Jamaica, NY 11434.	Oct. 17, 1985.
1617-R	Cauci Shipping, Inc., 2316 60th Street, Brooklyn, NY 11204.	Oct. 28, 1985.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-26863 Filed 11-8-85; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2015,
Name: Ponex Freight Forwarders Corp.,
Address: P.O. Box 661687, Miami, FL 33266,
Date Revoked: October 11, 1985,
Reason: Failed to maintain a valid surety bond;

License Number: 2292,
Name: Horace L. Pietravalle,
Address: P.O. Box 24842, Tampa, FL 33623,
Date Revoked: October 11, 1985,
Reason: Failed to maintain a valid surety bond;

License Number: 2685,
Name: Prestige Forwarding Services Corporation,
Address: One World Trade Center, Suite 2565, New York, NY 10048,
Date Revoked: September 14, 1985,
Reason: Surrendered License Voluntarily;

License Number: 1764,
Name: Caltrex Forwarders Corp.,
Address: 7901 NW. 67th Street, Miami, FL 33166,
Date Revoked: October 16, 1985,
Reason: Failed to maintain a valid surety bond;

License Number: 2837,
Name: Atlantic Forwarding, Inc.,
Address: 145 Hook Creek Blvd., Valley Stream, NY 11581,
Date Revoked: October 16, 1985,
Reason: Failed to maintain a valid surety bond;

License Number: 1778,
Name: Crescent Navigation Inc.,,
Address: 5 Marineview Plaza, Hoboken, NJ 07030,
Date Revoked: October 23, 1985,

Reason: Failed to maintain a valid surety bond.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 85-26864 Filed 11-8-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

November 5, 1985.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the **Federal Register.**

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Street, NW., Washington, DC 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

Proposal To Approve Under OMB Delegated Authority the Extension Without Revision of the Following Report:

1. Report title: Domestic Finance Company Report of Consolidated Assets and Liabilities.

Agency form number: FR 2248, FR 2248a.

OMB Docket number: 7100-0005.

Frequency: Monthly, Quarterly.

Reporters: Domestic finance companies.

Small businesses are affected.

General description of report:

This information collection is voluntary and is given confidential treatment [5 U.S.C. 552 (b)(4) and (b)(8)].

These reports collect information on major categories of consumer and business credit extended and held by finance companies and on major short-term liabilities outstanding. These data are used by the Federal Reserve for assessing aggregate credit market activity.

Board of Governors of the Federal Reserve System, November 5, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-26780 Filed 11-8-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85P-0490]

Petition Requesting Exclusivity for Ceftazidime

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: In keeping with agency policy, the Food and Drug Administration (FDA) is announcing the filing of a petition requesting, among other things, a period of marketing exclusivity for ceftazidime injection, an antibiotic drug. The agency has taken the position that antibiotics are not subject to the provisions of Title I of the Drug Price Competition and Patent Term Restoration Act of 1984. However, FDA is giving notice of the filing of this petition to all interested persons because, should FDA decide to change this position and to grant the petition, this decision may affect the date when approval for marketing of generic versions of this antibiotic, ceftazidime, may be made effective.

DATE: Comments by December 12, 1985.

ADDRESS: Requests for a copy of the petition and written comments regarding the petition to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Carol A. Kimbrough, Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: On September 24, 1984, the President signed into law the Drug Price Competition and Patent Term Restoration Act of 1984. This act amends the Federal Food, Drug, and Cosmetic Act (the act) authorizing, among other things, the agency to accept abbreviated new drug applications (ANDA's) for most previously approved new drug products. This legislation also provides for extending the term of a patent which claims a product, use, or method of manufacture that was subject to a regulatory review period in accordance with the act. Further, this new legislation also provides for periods of exclusive marketing of certain new drug products submitted in an application (or a supplement to an application) under section 505(b) of the act (21 U.S.C. 355(b)). An ANDA or paper new drug application (NDA) for such a drug may not be submitted (under some provisions) or made effective (under other provisions) until the period of "exclusive" marketing ends.

The new drug products that have been granted "exclusivity" under one of the several exclusivity provisions of this new legislation are set forth in the volume entitled "Approved Prescription Drug Products with Therapeutic Equivalence Evaluations" (the list) and its monthly supplements. In addition, the period of "exclusivity" is shown. Further, the list also shows those products that are covered by a patent and when the patent expires.

The agency believes that all patent and exclusivity information appearing in the list is correct, and expects that such information appearing in any future supplements to the list will also be correct. However, interested persons may disagree with the agency's findings and believe that FDA has excluded patent or exclusivity information that should have been included, or included patent or exclusivity information that should have been excluded. Accordingly, FDA has established a policy that, whenever an interested person submits a citizen petition requesting such inclusion or exclusion, the agency will publish a notice in the **Federal Register** of the availability of the petition. This publication is constructive notice to all interested persons that they may be affected by the petition and gives them an opportunity to submit their comments on the petition to the agency. Persons potentially affected include holders of approved ANDA's or approved paper NDA's the effective dates of which might be changed by a decision to grant the petition, persons who have pending ANDA's or paper NDA's or who contemplate submitting such applications that, when approved, would have effective dates that will be determined by the decision on the petition or, in some cases, persons whose right to submit such applications may be affected. Where a petition seeks a change in a decision to grant exclusivity, the applicant granted exclusivity has an obvious interest in the issue.

Although the agency has taken the position that antibiotics are not subject to the provisions of Title I of the Drug Price Competition and Patent Term Restoration Act of 1984, in accordance with the policy above, FDA is announcing the filing of a petition submitted on behalf of Glaxo, Inc. (Glaxo), requesting exclusivity for ceftazidime injection, an antibiotic drug. Specifically, Glaxo requests that the agency:

1. Stay the approval of or stay the effective date of approval of any generic ceftazidime drug product until July 19, 1990, 5 years after the first approval of ceftazidime under the "new drug application" submitted by Glaxo, or until a final monograph is adopted setting forth all specifications and methods necessary for the characterization of the strength, quality, and purity of ceftazidime, whichever comes last.

2. At a minimum, refrain from making effective any approvals for generic ceftazidime for 90 days on the condition that petitioners promptly apply for a preliminary or permanent injunction preventing such approvals.

FDA is reviewing the merits of this petition and, by this notice, is giving anyone who may be affected by this petition an opportunity to submit comments within 30 days.

Interested persons may, on or before December 12, 1985, submit to the Dockets Management Branch (address above) written comments on the petition. These comments will be considered in preparing an agency response to the petition. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday. Requests for a single copy of the petition should be sent to the Dockets Management Branch.

Dated: November 5, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-26833 Filed 11-8-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[HSQ-120-N]

Medicare Program; Utilization and Quality Control Peer Review Program; Solicitation of Comments on Proposed PRO Program Scope of Work

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: The purpose of this notice is to solicit comments on a revised Scope of Work for Utilization and Quality Control Peer Review Organizations (PROs) beginning in the third quarter of fiscal year 1986.

COMMENT DATE: To assure consideration, written comments must be received by November 27, 1985.

ADDRESS: Address requests for copies of the Scope of Work as well as comments on the Scope of Work to: Health Care Financing Administration, Attention: Joseph Hladky, Director, Office of Medical Review, Health Standards and Quality Bureau, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Joseph Hladky (301) 594-1432.

SUPPLEMENTARY INFORMATION: The Peer Review Improvement Act of 1982 (Title I, Subtitle C of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248) (Act) established the Utilization and Quality Control Peer Review Organizations (PRO) program. The Act requires the Secretary to enter into contracts with private Peer Review Organizations (PROs) for the review of the quality, necessity, and appropriateness of health care services furnished under Medicare. These contracts are renewable on a biennial basis unless HCFA decides not to renew a contract.

As part of this contracting process, we are preparing a revised Scope of Work to be performed by PROs. We are requesting comments on the preliminary version of the Scope of Work. Requests for copies of the Scope of Work and comments on the Scope of Work should be mailed to the address shown above. The revised Scope of Work will be incorporated into PRO contracts that we renew, as well as the RFPs that we may use for areas where contracts are not renewed.

All written comments received by the Health Care Financing Administration will be considered, but the Federal government is not obligated to incorporate particular comments into the revised Scope of Work.

(Sec. 1153(b) of the Social Security Act (42 U.S.C. 1320c-2(b)))

Dated: November 5, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

[FR Doc. 85-26868 Filed 11-8-85; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration

National Advisory Council on Migrant Health; Rechartering

Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, (5 U.S.C. Appendix I), the Health Resources and Services Administration announces the rechartering by the Secretary, HHS, on October 31, 1985 of the Following Advisory Counil:

Council	Termination date
National Advisory Council on Migrant Health	Continuing

Authority for this Council is continuing and a Charter will be filed no later than October 31, 1987, in

accordance with section 14(b)(2) of Pub. L. 92-463.

Dated: November 6, 1985.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA

[FR Doc. 85-26831 Filed 11-8-85; 8:45 am]

BILLING CODE 4160-16-M

Office of Human Development Services

Advisory Board on Child Abuse and Neglect; Meeting

Agency Holding the Meeting: Administration for Children, Youth and Families, Office of Human Development Services, HHS.

Time and Date: 1:30 p.m., Wednesday, November 13, 1985 to 2:30 p.m., Thursday, November 14, 1985.

Place: Chicago Hilton and Towers Hotel, Chicago, Illinois.

Status. Advisory Board meetings are open for public observation.

Matters To Be Considered: At this meeting, the Advisory Board will discuss: The results of the Public Hearings conducted during the Seventh National Conference on child Abuse and Neglect and issues raised in other Conference sessions, a draft annotated list of child abuse prevention publications prepared by a subgroup of the Advisory Board, the recommendations from the Surgeon General's Workshop on Violence, and a summary of NCCAN recent and current activities. Additionally, there will be a joint session with the State liaison officers on child abuse and neglect.

Contact person for more Information: Pat Wood, Special Assistant, Office of the Associate Commissioner, children's Bureau, P.O. Box 1182, Washington, D.C. 20013; telephone: 202/755-7447.

Dated: November 6, 1985.

Carolyn Garnett,

HDS Committee Management Officer.

[FR Doc. 85-26867 Filed 11-8-85; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-13213]

Disclaimer of Interest to lands; California

October 30, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Application has been filed by Kenneth Puckett of Blythe, California for a recordable disclaimer of Interest by the United States.

DATE: Comments should be received by December 12, 1985.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, California State Office (Room E-2841), Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Marie M. Getsman, California State Office, (916) 460-4815.

SUPPLEMENTARY INFORMATION: Pursuant to section 315 of the (Federal Land Policy and Management Act of 1976 (90 Stat. 2770: 43 U.S.C. 1745)), application number CA 13213 has been filed by Kenneth Puckett, for issuance of a recordable disclaimer of interest by the United States, affecting the following described land:

The accreted land formed to the land described as the area east of and attaching to government lots 1, 2 and 3, Section 2, T. 7S., R. 23 E., San Bernardino Meridian, California, as depicted on the official plat of survey approved December 28, 1874.

1. The Bureau of Land Management has reviewed the official records and has determined that the United States has no claim to or interest in the above described lands and that the issuance of a recordable disclaimer of interest will help to remove a cloud on the title to the land.

2. For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed disclaimer may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the California State Office.

3. Accordingly, the recordable disclaimer of interest will be issued no sooner than ninety days after the date of this publication.

Ed Hastey,

State Director.

[FR Doc. 85-26798 Filed 11-8-85; 8:45 am]

BILLING CODE 4310-40-M

[A-18906]

Arizona; Public Lands Exchange

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action; exchange of public lands in Yavapai County, Arizona.

SUMMARY: The following described public lands have been determined to be suitable for exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 13 N., R. 4 W.,
Sec. 24, All;
Sec. 25, All;
Sec. 26, All;
Sec. 27, All;
Sec. 28, N½, SE¼.

Comprising 3,040 acres of public land.

In exchange for these lands the Federal government will acquire non-Federal land from Phelps Dodge Corporation, described as follows:

Gila and Salt River Meridian, Arizona

T. 16 N., R. 3 E.,
Within Sections 15, 16, 21, and 22.

Comprising 721 acres of private land.

The exchange proposal involves the surface and mineral estate of the private land and the surface and mineral estate of the public land with the exception of oil and gas.

Purpose of the exchange is to acquire non-Federal land located within the boundaries of the Tuzigoot National Monument which is administered by the National Park Service.

Publication of this notice in the **Federal Register** will segregate the public lands described herein to the extent they will not be subject to appropriation under the public land laws, including the mining laws. As set forth in 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the **Federal Register** of a termination of the segregation, or two years from date of this publication, whichever occurs first.

ADDRESS: For a period of 45 days, interested parties may submit comments to: Bureau of Land Management, District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027.

Dated: October 30, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85-26797 Filed 11-8-85; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before November 2, 1985. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerns the significance of these properties under the National Register criteria for evaluation may be forwarded by the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by November 27, 1985.

Beth Grosvenor,

Acting, Chief of Registration, National Register.

ALABAMA

Lawrence County

Archeological Site No. 1 La 102

Macon County

Archeological Site No. 1 Mc 110

Winston County

Archeological Site No. 1 Wi 50

CONNECTICUT

Fairfield County

Stamford, *United States Post Office*, 421 Atlantic St.

New Haven County

Ansonia, *United States Post Office*, 237 Main St.

FLORIDA

Alachua County

Gainesville *Crawford and Davis Livery Stable*, 119 S.E. First Ave.

Dade County

Miami Shores, *Grand Concourse Apartments*, 421 Grand Concourse

GEORGIA

Cobb County

Marietta, *Church Street—Cherokee Street Historic District*, Church, Cherokee, & Campbell Hill Sts.

ILLINOIS

Cook County

Chicago, *Swedish Club of Chicago*, 1258 N. LaSalle St.

KENTUCKY

Fayette County

Guilfoil Village Site (15FA176)

Fulton County

Running Slough Site (15FU67)

MASSACHUSETTS

Hampden County

Palmer, *United States Post Office*, Park & Central Sts.

MINNESOTA

Cook County

Grand Marais vicinity, *Cleawater Lodge*, Off CR 66

NEW HAMPSHIRE

Hillsborough County

Hillsboro, *Contoocook Mills Industrial District*, Mill St.
Manchester, *Hill-Lassonde House*, 269 Hanover St.
Weare, *Weare Town House*, NH 114

Rockingham County

Danville, *Elm Farm*, 599 Main St.

NEW MEXICO

San Juan County

East Side Rincon Site (LA 3131)

OKLAHOMA

Muskogee County

Fort Gibson, *Post Adjutant's Office (Fort Gibson Post-Civil War Military Buildings TR)*, 905 Garrison Ave.

OREGON

Coos County

Coos Bay, *Nasburg—Lockhart House*, 687 N. Third St.

Crook County

Prineville, *First National Bank (Old) of Prineville and Foster and Hyde Store*, 247 N. Main St.

Douglas County

Lookingglass, *Wimer, James, Octaganal Barn*, 1192 Coos Bay Wagon Rd.

Jackson County

Ashland, *Roper, Fordyce, House—Southern Oregon Hospital*, 35 S. Second St.

Josephine County

Grants Pass vicinity, *Christie—Eismann House*, 5971 Upper River Rd.

Multnomah County

Portland vicinity, *Rockey, Dr. A. E. and Phila Jane, House*, 10263 S.W. Riverside Dr.
Portland, *Imperial Hotel*, 422-426 S.W. Broadway
Portland, *Portland General Electric Company Station "L" Group*, 1841 S.E. Water St.
Portland, Powers, Ira F., Building, 804-810 S.W. Third Ave.
Portland, *Reinhart, Jacques and Amelia, House*, 7821 S.E. Thirtieth Ave.

Union County

La Grande, *Foley Building*, 206 Chestnut St.

Washington County

Forest Grove, *Woods and Caples General Store*, 2020 Main St.
Portland, *Schanen-Zolling House*, 6750 S.W. Oleson Rd.

SOUTH DAKOTA

Lincoln County

Canton, *Old Main, Augustana Academy*, Lawler & Second Sts.

VIRGINIA

Augusta County

Blackrock Springs Site (AU-167)
Paine Run Rockshelter (AU-158)
Site No. AU-154

Greensville County

Emporia vicinity, *Spring Hill*, VA730

Henrico County

Laurel vicinity, *Laurel Industrial School Historic District*, N. & S. sides of Hungary Rd. W. of Old Staples Mill Rd.

Madison County

Big Meadows Site (MD-143)
Cliff Kill Site (MD-138)
Gentle Site (MD-112)
Robertson Mountain Site (MD-172)
Orange vicinity, *Brampton*, VA 671

Page County

Jeremey's Run Site (PA-116)

Rockbridge County

Mechanicsville vicinity, *Locust Hill*, VA 608
Big Run Quarry Site (RM-130)

Warren County

Compton Gap Site (WR-103)

WASHINGTON

Cowlitz County

Longview, *Big Four Furniture Building (Civic, Cultural, Commercial Resources of Longview TR)*, 1329 Commerce Ave.
Longview, *Columbia Theater (Civic, Cultural, & Commercial Resources of Longview TR)*, 1225 Vandercook Way
Longview, *First Christian Church (Civic, Cultural, & Commercial Resources of Longview TR)* 2000 E. Kessler Blvd.
Longview, *Lake Sacajawea Park (Civic, Cultural, & Commercial Resources of Longview TR)*, Bounded by Nichols & Kessler Blvds.
Longview, *Long, Robert Alexander, High School (Civic, Cultural, & Commercial Resources of Longview TR)*, 2903 Nichols Blvd.
Longview, *Longview Civic Center Historic District (Civic, Cultural & Commercial Resources of Longview TR)*, Bounded by Maple St., Sixteenth Ave., Hemlock St., & Eighteenth Ave.
Longview, *Longview Community Church (Civic, Cultural & Commercial Resources of Longview TR)*, 2323 Washington Way
Longview, *Longview Community Church-Saint Helen's Addition (Civic, Cultural & Commercial Resources of Longview TR)*, 416 Twentieth Ave.
Longview, *Longview Community Store (Civic, Cultural & Commercial Resources of Longview TR)*, 421 Twentieth Ave.
Longview, *Longview Women's Clubhouse (Civic, Cultural & Commercial Resources of Longview TR)*, 835 Twenty-first Ave.

Longview, *Mills Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1239 Commerce Ave.

Longview, *Pacific Telephone & Telegraph Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1304 Vandercook Way

Longview, *Pounder Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1208 Commerce Ave.

Longview, *Schumann Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1233 Commerce Ave.

Longview, *Sevier & Weed Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1266 Twelfth Ave.

Longview, *Tyni Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1166 Commerce Ave.

Longview, *Washington Gas & Electric Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1346 Fourteenth Ave.

Longview, *Willard Building (Civic, Cultural & Commercial Resources of Longview TR)*, 1403 Twelfth Ave.

WISCONSIN

Chippewa County

Stanley, *Moon, D.R., Memorial Library*, E. Fourth Ave.

Florence County

Florence, *Florence County Courthouse & Jail (County Courthouse of Wisconsin TR)*, 501 Lake St.

Polk County

Osceola, *Geiger Building-Old Polk County Courthouse*, 201 Cascade St.

Osceola, *Heald, Alvah A., House*, 202 Sixth Ave.

Sheboygan County

Plymouth, *Hotel Laack*, 52 Stafford St.

WYOMING

Albany County

Parker Ranch House

Laramie vicinity, *Bath Ranch*, Herrick Lane Rd.

Woods Landing, *Woods Landing Dance Hall*, 2713 WY 230

Campbell County

Basin Oil Field Tipi Rings Site (48CA1667)

Bishop Road Site (48CA1612)

Crook County

Sundance, *Sundance School*, 108 N. Fourth St.

Fremont County

Decker, Dean, Site (48FR916, 48SW4541)

Green Mountain Arrow Site (48FR96)

Lincoln County

Auburn, *Rock Church*, Second W. & First S. Sts.

Kemmerer, *Kemmerer Hotel*, Pine & Sapphire

Park County

Cody, *Park County Courthouse*, 1002 Sheridan Ave.

Sweetwater County

Arapahoe and Lost Creek Site (38SW4582)

Eldon—Wall Terrace Site (48SW4320)

The 15-day commenting period for the following property is to be waived in order to assist the buildings preservation through an easement.

OHIO

Hamilton County

Cincinnati, *Cincinnati Enquirer Building*, 617 Vine St.

[FR Doc. 85-26901 Filed 11-8-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

Availability of Final Environmental Assessment and Final Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of Final Environmental Assessment and Final Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500); and the U.S. Section's Operational Procedures for Implementing Section 102 of NEPA, published in the **Federal Register** September 2, 1981 (46 FR 44083), the U.S. Section hereby gives notice that the Final Environmental Assessment and Final Finding of No Significant Impact for joining with the Mexican Section in concluding a Minute on recommendations for implementation of Article VI B(1) of the Boundary Treaty of November 23, 1970 are available. The Draft Environmental Assessment was circulated for review and comment from federal, state, and local agencies and interested parties on July 3, 1984.

ADDRESS: M.R. Ybarra, Secretary of the United States; United States Section, International Boundary and Water Commission, United States and Mexico; The Commons, C-310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 541-7308, FTS 572-7308.

SUPPLEMENTARY INFORMATION:

Proposed Action

The proposed action is for the U.S. Section of the International Boundary and Water Commission (the Commission) to join with the Mexican Section of the Commission to conclude an agreement (Minute), subject to the approval of the governments of the United States and Mexico, on recommendations for implementation of Article IV B(1) of the Treaty to Resolve Pending Boundary Differences and Maintain the Rio Grande and Colorado River as the International Boundary, Nov. 23, 1970, United States and Mexico, 23 U.S.T. 371-391, T.I.A.S. No. 7313 (the 1970 Boundary Treaty). The proposed Minute would:

(1) Recommend distances to define on either side of the international boundary a restricted use zone within which works proposed or constructed should be judged by the Commission to comply with Article IV B(1) of the 1970 Boundary Treaty, taking into consideration that the width of the zone will be variable according to the hydraulic and topographic characteristics of each reach.

(2) Recommend technical bases for judgments that the Commission must make to determine whether or not works constructed or proposed within the restricted use zone, previously established, may cause deflection or obstruction of the normal flow of the river or of its flood flows to the extent of causing a change in the location of the international boundary, and should therefore be prohibited.

(3) Recommend the use by each Government of legal measures as it finds appropriate and necessary to facilitate implementation of Article IV B(1) of the 1970 Boundary Treaty to effect the prohibition of works constructed or proposed, which in the judgment of the Commission may cause deflection or obstruction of the normal flow of the river or its flood flows to the extent of causing a change in the location of the international boundary.

Alternatives Considered

Two alternatives were considered:

Preferred Alternative: The Proposed Action, as described hereinbefore, is the U.S. Section's Preferred Alternative. The 1970 Boundary Treaty requires that distances be established to define a restricted use zone within which works are to be prohibited that may cause deflection or obstruction of the normal flow or the flood of the Rio Grande and of the Colorado River.

No Action Alternative: The No Action Alterantive would be to maintain a status quo through current practices and decisions. A no action alternative would be contrary to the provision in Article IV B(1) of the 1970 Boundary Treaty that requires the Commission to recommend to the two Governments a distance within which the two Governments would prohibit construction of works

that in the judgment of the Commission may cause deflection or obstruction of the normal and flood flows of the boundary rivers.

Availability

Single copies of the Final Environmental Assessment and Final Finding of No Significant Impact may be obtained by request at the above address.

Dated: October 31, 1985.

Darcy Alan Frownfelter,

Legal Adviser.

[FR Doc. 85-26787 Filed 11-8-85; 8:45 am]

BILLING CODE 4710-03-M

Availability of Final Environmental Assessment and Final Finding of No Significant Impact

AGENCY: United States Section, International Boundary and Water Commission, United States and Mexico.

ACTION: Notice of Availability of Final Environmental Assessment and Final Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Final Regulations (40 CFR Parts 1500–1508); and the U.S. Section's Operational Procedures for Implementing section 102 of the National Environmental Policy Act (NEPA), published in the **Federal Register** September 2, 1981 (46 FR 44083), the U.S. Section hereby gives notice that the Final Environmental Assessment and Final Finding of No Significant Impact for revised improvements needed for the Rio Grande Canalization Project in El Paso County, Texas are available. A Notice of finding of no significant impact was published in the **Federal Register** August 6, 1985 (50 FR 31784) and provided a thirty (30) day comment period before making the finding final.

ADDRESS: George R. Baumli, Principal Engineer, Investigations and Planning Division; United States Section, International Boundary and Water Commission, United States and Mexico; The Commons, C-310; 4171 North Mesa; El Paso, Texas 79902. Telephone: (915) 541-7304, FTS 572-7304.

SUPPLEMENTARY INFORMATION:

Proposed Action

In 1975 it was determined by the U.S. Section that there were three reaches of the Rio Grande Canalization Project which did not provide adequate protection against the design flood of 17,000 cubic feet per second (cfs) in the El Paso area. The reaches were the Berino Bridge reach, the Canutillo-Borderland Road reach and the Anapra reach. To correct these shortcomings, improvements to the Canalization Project were proposed and considered in the Final Environmental Impact Statement (FEIS) "Improvements Needed for Rio Grande Canalization Project, New Mexico and Texas," August 1975.

In 1975, the Act of June 4, 1936 was amended to increase the amount of money authorized to be appropriated for construction of the Project. This had the effect of authorizing construction of the improvements. Construction of the improvements for the Anapra reach and Berino Bridge reach were completed in December 1976 and February 1977, respectively.

The improvements in the vicinity of Canutillo to Borderland Bridge were scheduled for 1977; however, only construction to increase the height of the west levee and relocate a portion of the west levee upstream of Borderland Bridge was completed by February 1980. These improvements provide the westside area of the subject reach with protection against the 17,000 cfs design flood. None of the other improvements for this reach were completed due to a right-of-way problem on the east side.

The proposed action is to complete as much work as possible within the available right-of-way. This includes widening the normal flow channel of the Rio Grande to increase its capacity, constructing a new 600 feet long levee on the east side of the river, constructing a dike adjacent to a tributary arroyo, and sandbagging a portion of the railroad embankment in the event of a river flood. These actions will provide protection against an expected flood of 17,000 cfs which as a frequency of occurrence of once in about 500 years.

The proposed improvements will provide flood protection to developed portions of Canutillo, Texas, to the Atchison, Topeka and Santa Fe (AT&SF) Railroad, and to State Highway 20 in the Canutillo area.

Alternatives Considered

Three alternatives were considered:

The proposed action is the U.S. Section's Preferred Alternative. This alternative will complete, to the extent that it is economically justifiable, the works essentially as proposed in 1975 for the Canutillo-Borderland Road reach. The west levee in this reach protects the west side of the river from flood flows of 17,000 cfs. The additional works of the proposed action will protect the east side of the river in this reach from flooding of 17,000 cfs, including the community of Canutillo with a population of about 4,000.

The No Action Alternative will result in no anticipated change in the existing conditions. The east side of the river including the community of Canutillo will be subject to flooding at flows above 10,600 cfs resulting in attendant loss due to flooding including losses of property and possibly lives.

The Full Protection for 17,000 cfs Design Flood Alternatives requires additional right-of-way be acquired for the construction of a new east levee and reinforced concrete floodwall. The AT&SF Railway Company is not in agreement regarding this right-of-way, and without an agreement, the east side of the subject reach cannot economically be fully protected for the 17,000 cfs design flood.

Availability

Single copies of the Final Environmental Assessment and Final Finding of No Significant Impact may be obtained by request at the above address.

Dated: October 30, 1985.

Darcy Alan Frownfelter,

Legal Adviser.

[FR Doc. 85-26786 Filed 11-8-85; 8:45 am]

BILLING CODE 4710-03-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Redelegation of Authorities to the Field; Latin Amercia and the Caribbean Region

Section I. Definition

AID Missions and Posts

AID Missions and Posts subject to this redelegation of authorities shall be the AID Missions to and Posts for Belize, Bolivia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Jamaica, Panama, and Peru, and the Regional Office for Central American Programs (ROCAP) and the Regional Development Office for the Caribbean (RDO/C).

Section II. Authorities

A. Implementing Authorities

Authority to negotiate, execute, and implement, in accordance with the terms of the authorization thereof and in accordance with applicable statutes and regulations, loan, grant and guaranty (other than Housing Guaranty)

agreements, amd amendments thereto, to their respective countries or regions, whether heretofore or hereafter authorized, including, but not limited to, authority:

1. To sign project grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments; and to sign all project loan and guaranty (other than Housing Guaranty) agreements and trust fund agreements:

2. To approve contractors, review and approve all borrower/grantee contracts financed in whole or in part by an AID loan or grant and review and approve request for proposals and invitations for bids with respect to such contracts; *provided, however*, that any invitations for bids for costruction activities which will be advertised in the United States and which are estimated to be $500,000 or more shall be first reviewed and approved by a Regional Legal Advisor or GC and by a U.S. direct hire engineer; and provided *further, however*, that any invitations for bids for fabricated or made-to-order equipment (e.g., turbines, transformers but not motor vehicles) which are estimated to $200,000 or more shall be first reviewed and approved by a Regional Legal Advisor or GC and by a U.S. direct hire engineer.

3. To prepare, negotiate, sign and deliver Project Implementation Letters; and

4. To review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent under such loan, grant or guaranty agreeements.

(See Delegation Nos. 5, 38).

Please note that the Director, SER/CM, has redelegated to the principal AID officers at posts in the LAC Region the authority to execute some U.S. Government Grants, other than grants to foreign governments or agencies thereof, and some Cooperative Agreements, pursuant to Redelegation of Authority No. 149.1.1 which is also published as Appendix IJ to Handbook 13. Some authority to sign direct contracts has also been redelegated by AIDAR 702.170–10(b).

B. Waiver Authorities for Source, Origin and Nationality

Authority to waive, in accordance with the applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1:

1. *Selected Free World.* U.S. source, origin and nationality requirements, to permit AID financing of the procurement of goods and services, other than transportation services in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed $5.0 million (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act"); provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $50,000 for any one transaction; that each such motor vehicle waiver shall contain any required certification, as set forth in Delegation of Authority No. 40; and that a summary of each waiver shall be cabled to AA/LAC when the waiver is signed and that this waiver authority for the AID officer in Belize shall be limited to $1 Million.

2. *Free World.* U.S. or AID Geographic Code 941 source, origin and nationality requirements, to permit AID financing of the procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World) or AID Geographic Code 935 (Special Free World), when the cost of goods and services does not exceed $5.0 million (exclusive of transportation costs) of funds made availabe under the Act; *provided, however*, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $50,000 for any one transaction; and that each waiver hereunder shall contain the appropriate certification, as set forth in Delegation of Authority No. 40; and that a summary of each waiver shall be cabled to AA/LAC when the waiver is signed and that this waiver authority for the AID officer in Belize shall be limited to $1 Million.

(See Delegation No. 40).

C. Excess Property

In accordance with the provisions of Section 607 of the Act and of AID Handbook 16, and subsequent to my authorizing such assistance, authority to execute transfer or transfer/trust agreements and amendments thereto with friendly countries or with international organizations having a membership primarily of foreign governments.

(See Delegation No. 38 and 41).

D. Extension of Terminal Dates

In accordance with AID Handbook 3 and Delegation of Authority No. 133, and any amendments thereto, authority to extend:

1. The terminal date for meeting conditions precedent for a cumulative period of not to exceed one year;

2. The terminal date for requesting disbursement authorizations for a cumulative period of not to exceed two years; and

3. The terminal date for completion of performing services and furnishing goods (PACD) for a cumulative period of not to exceed two years;

Provided, however, that this authority shall be exercised in writing, including a justification therefore, and a copy shall be forwarded to the Director, LAC/DR; and *provided further, however*, that this authority shall not be exercised if the result of so doing will cause the total life of a project (e.g., from point of initial obligation to revised PACD) to be more than ten years.

E. Waiver Authorities for Competition Under Borrower/Grantee Contracts

Authority to waive, in accordance with the terms and provisions of chapter 12C4a of Supplement B of AID Handbook 1, competition in the procurement of goods and services and to authorize a single-source negotiated borrower/grantee contract; *provided* that the estimated procurement does not exceed, $1,000,000; that the USAID Noncompetitive Review Board specified in Handbook 11 finds the waiver justified; that a summary of each waiver shall be cabled to AA/LAC when the waiver is signed; and that this authority for the AID officer in Belize is limited to $100,000.

(Please note that the provisions for noncompetitive negotiation of AID direct contracts are set forth in the FAR 5.202 and 6.302 and the AID specific waivers in AIDAR 706.302.70.)

F. Waivers of Advertisement Requirements for Borrower/Grantee Contracts

Authority to waive the requirement that a notice of availability of an IFB, RFTP, TFQ, or prequalification questionnaire be publicized in the *Commerce Business Daily* or an AID Publication for contracts which are $500,000 or less in estimated value; *provided, however*, that this authority only shall be exercised to avoid serious delay in project implementation; and *provided further, however*, that efforts shall in any event be made to secure proposals, bids, or offers from a reasonable number of potential contractors or suppliers.

(For AID direct contracts the corresponding authority is FAR 5.202 and AIDAR 706.302.70.)

Section III. Redelegation of Authorities

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, to the principal AID officer of each Mission and Post included in Section 1.

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and any other appropriate support office (e.g., Contract Management, Commodity Management).

B. The authorities redelegated pursuant to Section III hereof may, in the discretion of the principal AID officer, be further redelegated to his/her deputy and in the case of RDO/C to the principal AID officer in Grenada, or the individual acting in such capacity or may be exercised by the person acting in the capacity of the principal AID officer while with my prior approval the latter is out of the country. In addition, the Principal AID officer in all Missions except Belize may further redelegate the authorities contained herein in Section IIA 2, 3, and 4, and in Section IIC, to USAID direct hire staff members as he should deem appropriate.

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions and Posts by the Assistant Administrator for Latin America and the Caribbean and/or the Deputy U.S. Coordinator of the Alliance for Progress: *provided, however*, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: October 21, 1985.

Malcolm Butler,

Acting Assistant Administrator, Bureau for Latin America and the Caribbean.

[FR Doc. 85-26788 Filed 11-8-85; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Reimbursable Services—Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to Immigration and Naturalization Service Regulations (8 CFR 235.5(c)), the biweekly reimbursable excess costs for each preclearance installation are determined as set forth below and will be effective with the pay period beginning November 10, 1985.

Installation	Biweekly excess cost
Montreal, Canada	$9,808.43
Toronto, Canada	14,407.34
Kindley Field, Bermuda	2,105.69
Freeport, Bahama Islands	10,994.93
Nassau, Bahama Islands	8,850.14
Calgary, Canada	4,337.61
Edmonton, Canada	3,025.05
Vancouver, Canada	7,928.13
Victoria, Canada	4,387.46
Winnipeg, Canada	1,675.12

These amounts will be in effect and billed biweekly until the first full pay period after the next notice of reimbursable biweekly excess costs is published in the **Federal Register**.

Dated: November 5, 1985.

Malcolm E. Arnold,

Comptroller.

[FR Doc. 85-26877 Filed 11-8-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-85-100-C]

Carter Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Carter Coal Corporation, R.R. 1—P.O. Box 120, Cutler, Illinois 62238 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Kathleen Mine (I.D. No. 11-02790) located in Perry County, Illinois. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that padlocks be used to prevent mine scoope battery connector tightening rings from loosening and disconnecting the battery plugs.

2. As an alternate method, petitioner proposes to use a self-snapping harness snap in lieu of a padlock.

3. Petitioner states that these devices cannot fall out of place and can be removed easily. There are no keys to be lost and the lock cannot be jammed like a padlock.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26881 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-129-C]

Driftco Coal Inc.; Petition for Modification of Application of Mandatory Safety Standard

Driftco Coal Inc., Drift, Kentucky 41619 has filed a petition to modify the application of 30 CFR 75.1100-1(a) (type and quality of firefighting equipment) to its No. 1 Mine (I.D. No. 15-07163) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that waterlines be capable of delivering 50 gallons of water a minute at a nozzle pressure of 50 pounds per square inch.

2. As an alternate method, petitioner states that a flame-resistant belt conveyor with a switch to prevent slippage is used. The belt entry is from damp to wet and a fire sensor system is installed for the belt. The conveyor is patrolled daily. There is a start/stop switch at the head and tail piece and two-way communication exists from head to tail piece. The belt extends approximately 500 feet long and the mine is in the development stage.

3. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulation and Variances.

[FR Doc. 85-26882 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-133-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, One PPG Place, Pittsburgh, Pennsylvania 15222 has filed a petition to modify the application of 30 CFR 75.326 (aircourses and belt haulage entries) to its Lightfoot No. 1 Mine (I.D. No. 46-04332) and its Lightfoot No. 2 Mine (I.D. No. 46-04995) both located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air coursed through belt haulage entries not be used to ventilate active working places.

2. Petitioner is developing longwall panels using a three entry system. In order to maximize ventilation of the three entry system as an alternate method, petitioner proposes to use belt haulage air in the active working faces of the longwall development sections. This will increase the overall intake capacity of the mine by minimizing intake pressure losses and will provide more positive ventilation overall in both developing faces and across projected job areas. The likelihood of the accumulation of mine gases will be reduced and the controlling of dust in face areas will be enhanced. This will also eliminate possible neutral zones along belt haulage entries.

3. In support of this request, petitioner proposes to install an early warning fire detection system at specific locations as outlined in the petition in all belt entries used as intake air courses.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26883 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-13-N]

Fisher Sand and Gravel Co.; Petition for Modification of Application of Mandatory Safety Standard

Fisher Sand and Gravel Company, P.O. Box 1034, Dickinson, North Dakota 58601 has filed a petition to modify the application of 30 CFR 56.12028 (grounding systems) to its Charles Blado Plant (I.D. No. 21-02752) located in Hennipen County, Minnesota; its Glendive Pit (I.D. No. 24-00499), and its Ike's Crusher (I.D. No. 24-01603), both located in Dawson County, Montana; its Sidney Pit (I.D. No. 24-01625) located in Yellowstone County, Montana; its Ernest Heidecker Plant (I.D. No. 24-01709) located in Richland County, Montana; its Dickinson Pit (I.D. No. 32-00156), Paul Meyer Plant (I.D. No. 32-00596), and its Charlie Plant (I.D. No. 32-00640) all located in Stark County, North Dakota; its White Properties (I.D. No. 32-00507) and its Ernest Heidecker Plant (I.D. No. 32-00550), both located in McLean County, North Dakota; its D Schmidt Plant (I.D. No. 32-00547) and its Ike's Crusher (I.D. No. 32-00580), both located in Mercer County, Northf Dakota; its Weiler Wash Plant (I.D. No. 32-00157) located in Bowman County, North Dakota; its Paul Dillenger Plant (I.D. No. 32-00677) located in Dunn County, North Dakota; its Ed Lange Plant (I.D. No. 32-00295) located in Oliver County, North Dakota; its Don Nichols Pit (I.D. No. 32-00583) located in Wells County, North Dakota; its Charlie Plant (I.D. No. 39-01152) located in Lake County, South Dakota; its Ernest Heidecker Plant (I.D. No. 39-01224) located in Harding County, South Dakota; its Lan Grindhein Crusher (I.D. No. 39-01249) located in Tripp County, South Dakota; its Bruce Nygaard Plant (I.D. No. 30-01268) located in Pennington County, South Dakota; its John Miller Plant (I.D. No. 39-01226) located in Ziebach County, South Dakota; its Paul Meyer Plant (I.D. No. 39-01265) located in Todd County, South Dakota; its Nowell Hofer Plant (I.D. 39-01303) located in Charles Mix County, South Dakota; its Spearfish Pit (I.D. No. 39-01317) located in Lawrence County, South Dakota; its Harlan Everson Plant (I.D. No. 39-01319) located in Hughes County, South Dakota; its Stillwater Dam Plant (I.D. No. 42-01943) located in Duschene County, Utah; its Burce Nygaard Plant (I.D. No. 48-01304) located in Crook County, Wyoming; its Paul Meyer Plant (I.D. No. 48-01301) located in Weston County, Wyoming and its Ike's Crusher (I.D. No. 48-01400) located in Platte County, Wyoming. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that continuity and resistance of grounding systems be tested immediately after installation, repair, and modification, and annually thereafter.

2. Petitioner states that most of the plants are of a portable nature and subject to frequent movement throughout an eight state area.

3. As an alternate method, petitioner proposes to install multiple ground rods. Annual testing will be replaced by visual inspections each time they move, which ranges from two to six week intervals and the continuity will be tested at each new settling.

4. For these reasons the petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26884 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-140-C]

The Helen Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

The Helen Mining Company, P.O. Drawer D, Homer City, Pennsylvania 15748 has filed a petition to modify the application of 30 CFR 75.1101-8(a) (water sprinkler systems, arrangement of sprinklers) to its Homer City Mine

(I.D. No. 36-00926) located in Indiana County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one sprinkler be installed above each belt drive, belt take up, electrical control and gear-reduction unit, and individual sprinklers be installed at intervals of not more than 8 feet along all conveyor branch lines.

2. Petitioner states that protection electrical starter boxes with water sprinklers would result in a diminution of safety in that accidental or other activation of the sprinkler system could create a serious electrical hazard.

3. As an alternate method, petitioner proposes that electrical starter boxes will be placed out of the belt entry and separated from the belt entry by a brattice wall and enclosed in a dust free, sealed metal box and away from the coal rib and any combustibles.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26885 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-14-M]

Morton Thiokol, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton Thiokol, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1555 has filed a petition to modify the application of 30 CFR 57.21-78 (permissible equipment) to its Weeks Island New Mine (I.D. No. 16-00970) located in Iberia Parish, Louisiana. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On June 26, 1984, petitioner was granted a modification of 30 CFR 57.21-78 to use non-permissible equipment at the mine under prescribed conditions (Docket No. M-82-18-M).

2. This petition concerns that requirement of 30 CFR 57.21-78 that continuous methane monitors be installed on haulage trucks and front-end loaders and the specific levels of methane concentration required to trigger an alarm and automatic shut down of all mine power.

3. As an alternate method, petitioner proposes to eliminate the requirement of continuous methane monitors on haulage trucks and front-end loaders. The significant motion of these two pieces of equipment makes its difficult to maintain reliable calibration.

4. Petitioner also proposes to modity its application of the required flammable gas monitoring system so that an alarm will be set and periodically calibrated to activate if concentration of flammable gas in excess of 1.0% are detected, with automatic shutdown of all mine power at 1.5% concentration of flammable gas.

5. In further support of this request, petitioner states that:

a) All equipment used at the mine faces during the undercutting, drilling and roofbolting stages of the mining operations will be permissible equipment and will be maintained in permissible condition. This includes undercutters, face drills, floor drills, and roofbolters;

b) Non-permissible mining equipment will not be taken beyond the nearest complete intersection during the pertinent activities of the production cycle;

c) Electrical distribution boxes will be permissible boxes and will be maintained in permissible condition;

d) The primary vehicle for personnel transportation will be a permissible personnel vehicle maintained in permissible condition. This vehicle will be used to conduct the pre-shift mine surveys and inspect the mine after blasting;

e) The area methane monitoring system now in place will be maintained in workable condition with sensors relocated as required to provide area monitoring of working faces. The system will sound a visible and audible alarm both underground and on the surface at 1.0% methane and will sound an alarm and shut down mine power at 1.5% methane;

f) Mine power transformers will be installed outby the methane sensors or in fresh air; and

g) Permissible mobile equipment used in the mine will be equipped with a continuous methane monitor. This monitor will be calibrated to sound and alarm at 1.0% methane.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before (December 12, 1985). Copies of the petition are available for inspection at that address.

Dated: September 6, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26886 Filed 11-8-85; 8:435 am]

BILLING CODE 4510-43-M

[Docket No. M-85-15-M]

Morton Thiokol, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton Thiokol, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1555 has filed a petition to modify the application of 30 CFR 57.21-24(a) (fan stoppage) to its Weeks Island New Mine (I.D. No. 16-00970) located in Iberia Parish, Louisiana. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On June 20, 1984, petitioner was granted a modification of 30 CFR 57-21-24(a) to permit, in the event of main fan stoppage, persons to remain in and power to remain emergized in affected active workings under prescribed conditions for a period of time not to exceed thirty minutes, provided that methane concentrations measured during such period of time are less than 1.25% (Docket No. M-82-16-M).

2. This petition conerns that requirement of 30 CFR 57.21-24(a) that in the event of main fan stoppage all personnel be withdrawn, all mine power be shutdown and not restored, and that persons not be allowed to re-enter until a competent person determines that the methane concentration is less than 1.0a%.

3. As an alternate method, petitioner proposes that if the main fan is not fully operational within 30 minutes after

stoppage or malfunction, if a flammable gas concentration of 1.5% or greater is detected at any time within the 30 minutes, then the conveyor belt system, and all other equipment in the mine will be deenergized and all personnel withdrawn from the mine.

4. Petitioner also proposes that when all mine equipment has been deenergized and all persons withdrawn from the mine, no mining equipment will be energized and no person will reenter the mine until the main fan has been restrated and methane concentrations are determined to be less than 1.5% by a competent person.

5. In support of this request, petitioner states that:

(a) All equipment used at the mine faces during the undercutting, drilling and roofbolting stages of the mining operations will be permissible equipment and will be maintained in permissible condition. This includes undercutters, face drills, floor drills, and roofbolters;

(b) Non-permissible mining equipment will not be taken beyond the nearest complete intersection during the pertinent activities of the production cycle;

(c) Electrical distribution boxes will be permissible boxes and will be maintained in permissible condition;

(d) The primary vehicle for personnel transportation will be a permissible personnel vehicle maintained in permissible condition. This vehicle will be used to conduct the pre-shift mine surveys and inspect the mine after blasting;

(e) The area methane monitoring system now in place will be maintained in workable condition with sensors relocated as required to provide area monitoring of working faces. The system will sound a visible and audible alarm both underground and on the surface at 1.0% methane and will sound an alarm and shut down mine power at 1.5% methane;

(f) Mine power transformers will be installed out by the methane sensors or in fresh air; and

(g) Permissible mobile equipment used in the mine will be equipped with a continuous methane monitor. This monitor will be calibrated to sound an alarm at 1.0% methane.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments.

Persons interested in ths petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: September 6, 1985.

Patricia W. Silvey,

Director Office of Standards Regulations and Variances.

[FR Doc. 26887, Filed 11-8-85; 8:45 am]

BILLLING CODE 4510-43-M

[Docket No. M-85-16-M]

Morton Thiokol, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Morton Thiokol, Inc., 110 North Wacker Drive, Chicago, Illinois 60606-1555 has filed a petition to modify the application of 30 CFR 57.21046 (crosscut intervals) to its Weeks Island New Mine (I.D. No. 16-00970) located in Iberia Parish, Louisiana. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. On June 20, 1984, petitioner was granted a modification of 30 CFR 57.21046 to make crosscuts at intervals that would result in centerline distances of approximately 190 feet for those crosscuts made between rooms, with such room widths and crosscut widths being approximately 70 feet; and the making of crosscuts at the earliest opportunity in accordance with the mine plan, without requiring that crosscuts hole through before advancing the room face 35 feet beyond the next crosscut center-line (Docket No. M-82-19-M).

2. This petition concerns that portion of Condition 2 of the Final Decision and Order on that petition which states the alarm shall be set and periodically calibrated to activate if concentrations of flammable gas in excess of 0.25% are detected, with automatic shutdown of all underground mine power at 0.5%. Petitioner has experienced considerable unreliability in the operation of its area monitoring system at the 0.5% concentration level.

3. As an alternate method, petitioner proposes to modify its application of the required flammable gas monitoring system so that an alarm will be set and periodically calibrated to activate if concentrations of flammable gas in excess of 1.0% are detected, with automatic shutdown of all underground mine power at 1.5% concentration of flammable gas.

4. In support of this request, petitioner states that:

(a) All equipment used at the mine faces during undercutting, drilling and roofbolting will be permissible equipment maintained in permissible condition;

(b) Non-permissible mining equipment will not be taken beyond the nearest complete intersection during the pertinent activities of the production cycle;

(c) Electrical distribution boxes will be permissible boxes maintained in permissible condition;

(d) The primary vehicle for transportation will be a permissible personnel vehicle maintained in permissible condition. This vehicle will be used to conduct the pre-shift mine surveys and inspect the mine after blasting;

(e) The area methane monitoring system will be maintained in workable condition with sensors relocated to provide area monitoring of working faces;

(f) Mine power transformers will be installed out by the methane sensors or in fresh air; and

(g) Permissible mobile equipment used in the mine will be equipped with a continuous methane monitor which will sound an alarm at 1.0% methane.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26888 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-79-C]

NACCO Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

NACCO Mining Company, Powhatan Point, Ohio 43942 has filed a petetion to modify the application of 30 CFR 75.312 (air passing through abandoned, inaccessible, or robbed area) to its Powhatan No. 6 Mine (I.D. No. 33-01159) located in Belmont County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air that has passed through an abandoned area or an area which is inaccessible or unsafe for inspection not be used to ventilate any working place in the mine.

2. As an alternate method, petitioner proposes to establish monitoring stations using carbon monoxide sensors and a methane detector where quality and quantity of all air passing through the tempering panel will be monitored. These stations will be maintained in a safe condition at all times and the roof will be supported by roof bolts or other means.

3. In support of this request, petitioner states that:

(a) The carbon monoxide sensor will initiate an alert signal when the carbon monoxide content of the air passing over the sensor is 10 ppm above the ambient level for the tempering entries and an audible alarm signal when the carbon monoxide level is 15 ppm above the ambient level;

(b) The mehtane monitor will activate the alert signal at a central location where a responsible person is always on duty when the methane content of air exiting the tempering entries exceeds 0.25 volume percent and an audible alarm when the methane content reaches 0.5 percent. Two-way communication exists at all sections;

(c) The monitoring instruments will be examined daily, the monitors will be tested weekly for functional operation, and the carbon monoxide sensoring system will be calibrated at least monthly. Tests for methane will be made, and the quantity of air will be measured at each station by a certified person;

(d) If at any time any part of the system malfunctions, or is deenergized, the air will be continuously monitored by a certified person for carbon monoxide and methane until the monitoring system is restored to normal operation; and

(e) The person at the central location will be trained in the operation of the systems and in the proper procedures to follow in the event of an alter or alarm. When the monitoring system gives a visual or audible signal, all personnel will be withdrawn from the mine.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Directror, Office of Standards, Regulations and Variances.

[FR Doc. 85-26889 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-139-C]

North Mountain Coal, Inc.; Petition for Modification of Application of Mandatory Safety Standard

North Mountain Coal, Inc., 130 E. Independence Street, Shamokin, Pennsylvania 17872 has filed a petition to modify the application of 30 CFR 73.301 (air quality, quantity, and velocity) to its West Side—S. Dip Mine (I.D. No. 36-07681) located in Northumberland County, Pennsylvania. The peititon is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine, which also has no history of an ignition, explosion, mine fire or harmful quantities of carbon dioxide and other noxious or poisonous gases.

2. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

3. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

4. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26890 Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-85-146-C]

Olga Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Olga Coal Company, c/o LTV Steel Company, Inc., P.O. Box 6778, Cleveland, Ohio 44101 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Olga Mine (I.D. No. 46-01407) located in McDowell County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows.

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. The main return air course was developed forty years ago, using

wooden headers and posts for roof support which have deteriorated, resulting in numerous roof falls, prohibiting passage.

3. As an alternate method, petitioner proposes to install an air measurement station in the return entry of 6 North Mains where the quantity, quality and direction of air will be measured by a certified person on a weekly basis.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 12, 1985. Copies of the petition are available for inspection at that address.

Dated: November 5, 1985.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 85-26891, Filed 11-8-85; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL SCIENCE FOUNDATION

Permit Application Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45 Part 670 of the Code of Federal Regulations. This the required notice of permit applications received.

DATE: Interested parties are invited to submit written data, comments, or views with respect to the permit applications by December 12, 1985. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESS: Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers at the above address or (202) 357-7934.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95-541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States Citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas as requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest. Additional information was published in the **Federal Register** on July 15, 1985.

The applications received are as follows:

1. Applicant

David G. Ainley, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970.

Activity for Which Permit Requested

Taking: Import into U.S.A.

The applicant is conducting a study of the ecology of seabirds and proposes to take specimens to determine diet and prey selectivity. Specimens proposed to be taken are:

Species	No.
Adelie Penguin	50
Chinstrap Penguin	50
Black-browed Albatross	10
Gray-headed Albatross	10
Sooty Albatross	10
Southern Giant Fulmar	15
Southern Fulmar	60
Cape Petrel	60
Snow Petrel	60
White-chinned Petrel	15
Blue Petrel	60
Antarctic Prion	60
Diving Petrel	10
Wilson's Storm Petrel	60
Arctic Tern	50
South Polar Skua	25
Brown Skua	10
Dominican Gull	10
American Sheathbill	10
Antarctic Petrel	60

Location

Weddell Sea (via R/V *Melville* and USCGC *Glacier*)

Dates

February—March, 1986.

2. Applicant

Donald B. Wiggin, ITT/Antarctic Services, 621 Industrial Avenue, Paramus, New Jersey 07652.

Activities for Which Permit Requested

Enter Specially Protected Area.

The applicant proposes to enter Specially Protected Area number 17, Litchfield Island, for the following purposes:

Inspection of survival cache for boating operations located on Litchfield Island. Inspection of cache is an operational requirement for boating safety.

Check for notification signs that indicate that Litchfield Island is a specially protected area. Signs are located at three primary landing sites.

General clean up of the island including the removal of old cache material and the remnants of a temporary meteorological station.

Occasional census of bird and seal populations on the island as part of an overall population count of the area. This is part of a monitoring of mammals and birds in the Palmer area to be conducted during the 1985-86 season including the winter period.

Locations

Litchfield Island.

Dates

November 1985—December 1986.

Authority to publish this notice has been delegated by the Director of the National Science Foundation.

Peter E. Wilkniss,

Division Director, Division of Polar Programs.

[FR Doc. 85-26785 Filed 11-8-85; 8:45 am]

BILLING CODE 7555-21-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 70-1308 and 72-1 SP]

General Electric Co. (Morris Facility); Issuance of Director's Decision Under 10 CFR 2.206 (DD-85-16)

Notice is hereby given that the Director, Office of Nuclear Material Safety and Safeguards, has issued a decision concerning a Petition dated August 29, 1985, submitted by the Illinois Safe Energy Alliance regarding the General Electric Morris Operation.

The Petition requested that the Director, Office of Nuclear Material Safety and Safeguards, prepare a complete federal environmental impact statement for the General Electric

Morris Operation, and that the Nuclear Regulatory Commission reconsider a decision by the Licensing Board authorizing the renewal of the license of General Electric Company to store spent fuel at the facility without requiring a federal environmental impact statement.

The Director of the Office of Nuclear Material Safety and Safeguards has determined to deny the Petition. The reasons for this decision are explained in a "Director's Decision Under 10 CFR 2.206," (DD-85-16) which is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. 20555. A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Silver Spring, Maryland, this 4th day of November 1985.

For the Nuclear Regulatory Commission.

Donald B. Mausshardt,

Deputy Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 85-26859 Filed 11-8-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-245]

Northeast Nuclear Energy Co. (Millstone Nuclear Power Station, Unit No. 1); Exemption

I.

The Northeast Nuclear Energy Company (the licensee), et al., is the holder of Provisional Operating License No. DPR-21 which authorizes operation of the Millstone Nuclear Power Station, Unit No. 1. The license provides among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The Millstone Unit No. 1 plant power source is a boiling water reactor located at the licensee's site in the town of Waterford, Connecticut.

II.

On November 19, 1980, the Commission published a revised 10 CFR 50.48 and a new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections, III.G., is the subject of this exemption request. Specifically, subsection III.G.2 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits or redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

III.

By letters dated March 1, and July 16, 1982 as supplemented by letters dated April 15, 1983, December 4, 1984, August 7 and 23, 1985, the licensee requested exemptions from the requirements of section III.G of Appendix R, to the extent that it requires physical separation and/or fire protection systems to protect redundant trains of safe shutdown related cable and equipment. The acceptability of the exemption requests for each of the five fire areas is addressed below. Details are contained in the NRC staff's related Safety Evaluation.

The fire areas related to the five exemptions are:

(1) Main Control Room (Fire Area T-21).

(2) Turbine Building Reactor Feed Pump Area, Elevation 14'6" (Fire Area T-5 B and C).

(3) Turbine Building Switchgear Area (T-19A), Elevation 34' 6".

(4) Turbine Building Switchgear Area (T-19 CD and E), Elevation 34'6".

(5) Reactor Building—Northeast, Elevation 42'6" (Area R-19).

Exemption 1 Main Control Room (Fire Area T-21)

The control room is not in compliance with section III.G because of the lack of adequate physical separation between redundant shutdown divisions and the lack of an alternate shutdown capability independent of the control room.

The Unit 1 control room is enclosed by complete reinforced concrete construction except at the common boundary with the Unit 2 Control Room, where a smoke barrier (metal panel and glass) is installed. All openings are protected by doors, dampers or fire rated penetration seals. Also, in all other plant locations, redundant safe shutdown divisions are separated and protected so that one division will remain free of fire damage. There is, therefore, reasonable assurance that a fire that occurs outside of the control room will affect only one shutdown division within the control room and because the control room is a separate fire area from the rest of the plant, a fire that occurs anywhere else in the plant will not endanger control room operators.

The fire hazard within the control room is low. In-situ combustible materials consist mainly of paper, cable insulation within the control panels, and small quantities of transient combustibles. The quantity, nature, and distribution of the in-situ combustibles is such that if a fire were to occur, it would not propagate quickly or exend over a large area of the control room. The hazards associated with transient combustible materials will be further mitigated to a limited extent by the shift inspections and the licensee's administrative controls. While these measures by themselves are not enough to ensure that additional accumulations of combustible materials will not occur, they will reduce the probability of having them. Because the control room is continuously manned and because a fire detection system is present in all areas outside of the normal line of sight of the operators, any potential fire will be detected in its incipient stages. This early fire warning capability, coupled with the portable fire fighting equipment in the room, provides reasonable assurance that a fire will be discovered and suppressed before reaching a significant magnitude. The staff, therefore, concluded that a fire located away from the control panels will not posed a direct threat to safe shutdown systems in the panels.

Because of the limited spatial separation between redundant shutdown divisions in either the auxiliary panels or the main control console, a fire at or within the panels has the potential for damaging both divisions. Protection against this hazard will be achieved by the installation of seals at the floor around the panels and console which will prevent a spilled flammable liquid from flowing into the cabinets. Additional protection against this hazard will be the automatic Halon 1301 fire suppression system that will be installed to protect the entire main control room. The customized administrative controls and the need to

keep the space around the panels free of obstruction for operator access, will help preclude accumulations of combustibles to a significant degree.

If a fire should occur at, near, or within the panels, the fire or fire suppression activities, such as the discharge of a portable fire extinguisher, may cause a loss of function of a portion of the main control board or auxiliary control panels. Safe shutdown conditions could still be achieved and maintained via the alternate shutdown capability.

The licensee has committed to provide an automatic halon fire suppression system. The suppression system also has the capability for manual activation if the operators become aware of a fire before the fire detection sensors. The staff concluded that any potential fire that occurs within the main control board will be rapidly detected and either automatically or manually suppressed before serious damage occurs.

Local fire damage to the panels is also possible. Staff opinion is that, because of the limited nature of the fire hazards and the level of fire protection in the control room, the worst damage is the complete loss of two adjacent panels in the main control console or one enclosed auxiliary control panel. The licensee will have provisions for safe shutdown if fire causes a loss of function to the shutdown systems in any one of the four control room fire zones. The staff found this acceptable.

The remaining concern involved control room habitability. Because the achievement of safe shutdown after a fire in the control room is dependent on some undamaged safe shutdown systems in the room, fire effects have to be limited so that safe shutdown can be achieved and maintained if control room evacuation becomes necessary for a period of time.

Because of the limited fire hazards in the control room, the continuous presence of control room operators and the added fire protection proposed by the licensee, including an automatic Halon fire suppression system, the effects of a fire in the control room would not be serious enough to cause long term evacuation. The staff judged that control room habitability could be reestablished within one hour if evacuation became necessary, with reliance upon the manual smoke removal system, portable exhaust fans, and self-contained breathing apparatus.

The licensee will have provisions for safe shutdown if the control room remains habitable during a fire or if evacuation is necessary for up to one hour. The staff therefore concluded that there is reasonable assurance that under all credible fire scenarios for the control room, a capability to achieve and maintain safe shutdown conditions will remain free of fire damage.

Based on the above evaluation, the staff concluded that the existing fire protection with the proposed modifications will provide a level of fire protection equivalent to that provided by Item III.G.2. Additional modifications needed to meet the requirements of section III.G of Appendix R would not significantly increase fire safety of the plant. Therefore, the staff finds the licensee's request for exemption from section III.G.2 of Appendix R to 10 CFR 50, for the control room acceptable.

Exemption 2 Turbine Building Reactor Feed Pump Area, Elevation 14'6" (Fire Area T-5 B and C)

The requirements of section III.G.2 were not met because of the lack of an area-wide automatic fire suppression system.

The Turbine Building is considered a single fire area. Within it, the licensee has identified the Reactor Feed Pump Area as a location where automatic sprinkler protection has not been provided per section III.G.2.c.

Safe shutdown equipment present in this location consists of reactor feed pumps A and B; supporting lube oil pumps A and B; and motor control centers (MCC) 2-4 and 2A-4. Shutdown-related cables in this location are listed in the licensee's April 15, 1983 submittal.

A fire of significant magnitude could cause the loss of redundant shutdown systems. However, the feed pump area is protected by an automatic fire detection system which alarms in the Control Room. If a fire should occur, it would be detected in its formative stages before significant temperature rise or flame propagation occurs. The plant fire brigade would then be dispatched to the area to extinguish the fire using the manual fire fighting equipment available in the area.

If rapid fire spread occurred before the arrival of the brigade, the existing and proposed sprinkler systems would actuate to limit fire spread, reduce room temperatures and protect the shutdown-related components. The cable fire-barrier will protect one division of redundant shutdown-related cables from damage.

All other shutdown systems have redundant counterparts in other fire areas or are required only for cold shutdown and can be repaired within 72 hours. There is, therefore, reasonable assurance that if a fire occurred in the feed pump area, safe shutdown could be achieved and maintained.

Existing fire protection includes: partial automatic sprinkler protection; a fire detection system; cable tray fire stops; manual hose stations and portable fire extinguishers. In the April 15, 1983 letter, the licensee committed to protect one train of the redundant emergency diesel generator power and control cables in a 1-hour fire-rated barrier and to protect these cables by an automatic sprinkler system.

Based on this information, the staff concluded that the licensee's alternate fire protection configuration will achieve an acceptable level of fire protection equivalent to that provided by section III.G.2. Therefore, the staff finds the licensee's request for exemption for the Reactor Feed Pump Area acceptable.

Exemption 3 Turbine Building Switchgear Area (T-19A) Elevation 34'6" (Area 19-A)

The requirements of section III.G.2 are not met because the redundant switchgear and associated cable are not completely separated by a 1-hour fire-rated barrier and are not completely protected by an automatic fire suppression system.

The Turbine Building is a single fire area. Within it, the licensee has identified the Switchgear Area T-19A as a location where automatic sprinkler protection has not been provided throughout.

Safe shutdown equipment in this location consists of redundant shutdown-related switchgear. Shutdown cables in this location are listed in the licensee's April 15, 1983 submittal.

Existing fire protection includes a complete fire detection system, manual hose stations, and portable fire extinguishers. In the April 15, 1983 letter, the licensee committed to install an automatic deluge-type water spray system, actuated by heat detector and a concrete curb-dike to protect switchgear in this location from its redundant counterpart in Switchgear Area T-19CDE. The licensee also committed to protect one division of shutdown-related cables from a fire in zone T-19B to a point 60 feet beyond its redundant switchgear located in area T-19A.

The NRC concern was that a fire of significant magnitude could cause the loss of these systems. However, the principal fire hazard to the switchgear and cables is combustible cable insulator. Because these cables are coated with a fire retardant, the staff concluded that a fire in them would not burn rapidly or with initially-high heat release. A fire would be detected early by the fire detector system. The fire brigade would then be dispatched to

extinguish the fire using the manual fire fighting equipment that is available. Pending arrival of the brigade, the deluge system between the switchgear would activate and discharge water automatically in a "curtain" pattern. This concept has been used successfully to protect openings in fire walls and floor/ceiling assemblies and, therefore, provide reasonable assurance that switchgear from one division will remain undamaged. Also, the combination of a 1-hour fire-rated barrier with the 60 feet of separation between shutdown cable and its redundant switchgear will provide sufficient passive protection until the fire is put out.

Based on this understanding, the staff concluded that the licensee's alternate fire protection configuration, will achieve an acceptable level of fire protection equivalent to that provided by section III.G.2. Therefore, the staff finds the licensee's request for exemption for the Switchgear Area (T-19A) acceptable.

Exemption 4 Turbine Building Switchgear Area, 34'6" (Area T-19 C, D, E)

The requirements of section III.G.2 are not met because redundant switchgear are not completely protected by a 1-hour fire barrier and are not completely protected by an automatic fire suppression system.

The Turbine Building is a single fire area. Within it, the licensee has identified Switchgear Area T-19 C, D, E as a location where automatic sprinkler protection has not been provided throughout.

Safe shutdown equipment in this location consists of redundant switchgear; 125-VDC motor control center DC 11-A-3; battery chargers 1, 1A, and 11A; and the 4kV bus tie from bus #7 to bus #3. Shutdown cables in this location are listed in the licensee's April 15, 1983 submittal.

Existing fire protection includes a pre-action type sprinkler system for the seal oil unit and lift pumps; a fire detection system; manual hose stations and portable fire extinguishers.

In the April 15, 1983 submittal, the licensee committed to install a 1-hour fire barrier to protect all the S-2 train shutdown related cables, the service water pump cables and the S-2 D.C. switchgear. In addition, an automatic deluge system and curb/dike will be installed to protect the switchgear in this location from its redundant counterpart in Switchgear Area T-19B.

The switchgear area is protected by an early-warning fire detection system which alarms in the control room. There is reasonable assurance that if a fire should occur, it will be detected and suppressed early by the plant fire brigade. Until the fire is suppressed, the proposed deluge system and 1-hour fire-rated barriers will provide protection to one division of shutdown systems so that a safe shutdown capability will be available during and after a fire.

Based on the above, the staff concluded that the licensee's alternate fire protection configuration, will achieve an acceptable level of fire protection equivalent to that provided by section III.G.2. Therefore, the staff finds the licensee's request for exemption for the Switchgear Area (T-19 C,D,E) acceptable.

Exemption 5 Reactor Building-Northeast, Elevation 42' 6" (Area R-19)

The technical requirements of section III.G.2 are not met because the redundant instrument racks and related pneumatic tubing are not completely separated by a 3-hour fire-rated barrier.

The Reactor Building is a single fire area. Within it, the licensee has identified the northeast corner of elevation 42' 6" as a location where a complete 3-hour fire rated barrier does not exist between redundant instrument racks.

Safe shutdown systems in this location consists of the following equipment:

Reactor Building closed cooling water pumps,
Reactor Building closed cooling water heat exchangers,
Reactor and recirculation pump instrument racks,
Isolation condenser condensate return valve,
Isolation condenser valve transfer switches,
Motor control center.

Existing fire protection consists of an automatic deluge sprinkler system for the motor generator set areas; a wet pipe sprinkler system for cable tray protection; a fire detection system; manual hose stations and portable fire extinguishers.

The licensee justified the exemption on the basis of the existing fire protection, the construction of the instrument racks and related pneumatic tubing, and the 30-40 feet of spatial separation between redundant racks and tubing.

The staff was concerned that because a complete 3-hour wall did not exist between the redundant instrument racks, they could both be damaged if a fire occurred in this location. The areas where combustile materials are concentrated are protected by automatic fire suppression systems. In addition, this location is protected by a fire detection system which alarms in the control room. If a fire should occur, it would be detected in its formative stages, before significant flame propagation or temperature rise occurred. It would then be suppressed by the fire brigade using manual fire fighting equipment.

If a fire originated on either side of the existing wing wall which separates both instrument racks, the wing wall would act as a shield to protect the instrument rack from direct flame impingement and radiant energy. If a fire were located at the leading edge of the wall, the automatic sprinkler system would actuate to suppress the fire, reduce room temperatures and protect the racks. Until the fire is suppressed, the 40 feet of spatial separation between the racks and the ¼-inch steel plate rack enclosures would provide a degree of passive fire protection to provide reasonable assurance that at least one rack would remain free of fire damage.

Based on the above, the staff concluded that the licensee's alternate fire protection configuration will achieve an acceptable level of fire protection equivalent to that provided by section III.G.2. Therefore, the staff finds the licensee's request for exemption for the northeast corner of the Reactor Building on elevation 42' 6", area R-19 acceptable.

IV.

The Commission has determined that, pursuant to 10 CFR 50.12, these exemptions as described in section III are authorized by law and will not endanger life or property or common defense and security and are otherwise in the public interest. Therefore, the Commission hereby grants the exemption requests identified in section III above.

Pursuant to 10 CFR 51.32 the Commission has determined that the granting of these Exemptions will not result in any significant environmental impact (50 FR 41265, October 9, 1985).

The Safety Evaluation dated November 6, 1985 related to this action and the above referenced submittals by the licensee are available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, DC 20555, and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

A copy of the Safety Evaluation may be obtained upon written request to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

These exemptions are effective upon issuance.

Dated at Bethesda, Maryland, this 6th day of November 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85-26860 Filed 11-8-85; 8:45 am]

BILLING CODE 7590-01-M

Relocation of Records for the San Onofre Nuclear Generating Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of proposed relocation of records for the San Onofre Nuclear Generating Station.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is considering moving the Local Public Document Room records collection for the San Onofre Nuclear Generating Station from the San Clemente Public Library, San Clemente, California, to another location. Because of the size of the collection, which now measures almost 150 shelf feet of material, it has become increasingly difficult for the San Clemente Public Library, with its limited facilities and staff, to properly maintain and service the collection, and to provide assistance to the public in utilizing the collection.

DATE: Comment period expires December 12, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments filed on or before this date.

ADDRESSES: Written comments may be submitted to the Local Public Document Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Jona L. Souder, Chief, Local Public Document Room Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301-492-7536, or Toll Free 800-638-8081.

SUPPLEMENTARY INFORMATION: For the past several years, the San Clemente Public Libarary, located at 242 Del Mar, San Clemente, California, has served as the Local Public Document Room repository for records relating to the San Onofre plant. The document collection includes essentially all records considered by the NRC in the licensing and regulation of the San Onofre plant. Because of the growth in the size of the collection and the library's limited facilities and staff, the NRC has decided to relocate the collection.

Two libraries, which have expressed an interest in maintaining the collection and are being considered as alternate sites, are those at the University of California at Irvine, California, and Saddleback Community College at Mission Viejo, California. The University of California at Irvine is located about 20 miles north of San Clemente and Saddleback Community College is located about 10 miles north of San Clemente.

Among the factors the NRC will consider in selecting a new location for the collection are:

(1) The willingness and ability of the library to house and maintain the collection;

(2) The physical facilities available, including workspace and copying and micrographics equipment;

(3) The willingness and ability of the library staff to assist the public to locating records;

(4) The public accessibility of the library, including parking, ground transportation, and hours of operation, particularly evenings and weekends hours;

(5) The proximity of the library to the San Onofre plant; and

(6) The proximity of the library to existing user groups of the collections, if known.

Public comments are requested on the desirability to moving the San Onofre collection to the University of California Library at Irvine, Saddleback Community College Library, or to any other appropriate library in the vicinity of the San Onofre Plant.

Dated at Bethesda, Maryland this 6th day of November, 1985.

For the U.S. Nuclear Regulatory Commission.

J. M. Felton,

Director, Division of Rules and Records, Office of Administration.

[FR Doc. 85-26857 Filed 11-8-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-445-OL & OL-2, 50-446-OL & OL-2]

Texas Utilities Electric Co., et al. (Comanche Peak Steam Electric Station, Units 1 and 2); Hearing Location

November 5, 1985.

Before Administrative Judges: Peter B. Bloch, Chairman, Dr. Kenneth A. McCollom, Dr. Walter H. Jordan, Herbert Grossman, Esq.

A prehearing conference to discuss procedural matters on the above-captioned case will be held on November 12, 1985 in Dallas, Texas from 8:30 a.m. to 5:00 p.m. at the following location: Commission's Courtroom (1st Floor), Dallas County Administration Building, 411 Elm Street, Dallas, Texas 75202-3301.

For the Atomic Safety and Licensing Board.

Peter B. Bloch,

Chairman, Administrative Judge.

Bethesda, Maryland

[FR Doc. 85-26861 Filed 11-8-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

Visit; Philadelphia Post Office

November 5, 1985.

Notice is hereby given that the Chairman and Commissioners of the Postal Rate Commission will visit the Philadelphia Post Office, 30th and Market Streets, Philadelphia, Pennsylvania, on November 13, 1985 at 2:00 p.m., to obtain general knowledge and understanding of mail operations. A report of the visit will be on file in the Commission's Docket Room.

Charles L. Clapp,

Secretary.

[FR Doc. 85-26791 Filed 11-8-85; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14787; (File Nos. 812-5932 and 812-5933)]

Lloyds Bank plc and Lloyds America Capital Corp.; Application for an Order Exempting Applicants From all Provisions of the Act

November 5, 1985.

Notice is hereby given that Lloyds Bank plc ("Lloyds"), 71 Lombard Street, London EC3P, England, and its wholly-owned subsidiary, Lloyds America Capital Corporation ("Lloyds America"), Suite 430, 1000 Louisiana Street, Houston, TX 77002 (collectively,

"Applicants") each filed an application on August 29, 1984, and amendments thereto on October 29, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicants from all provisions of the Act in connection with their proposed issuance and sale of commercial paper and other debt securities in the United States. All interested persons are referred to the applications on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the applicable provisions thereof.

According to the applications, Lloyds is recognized as a commercial bank under the United Kingdom's Banking Act of 1979, and is engaged in a wide range of commercial and retail banking operations. Lloyds further states that its businesses are similar to those of the largest United States banks, that it is represented in 47 countries, is one of the largest banking groups in the world and one of London's four major clearing banks, and that it had total assets of $21.2 billion as of December 31, 1984.

Lloyds represents that it is subject to extensive regulation in the United Kingdom, including regulation of the Bank of England. Further, because of United States activities engaged in by its wholly-owned subsidiaries, Lloyds is also subject to the Bank Holding Company Act of 1956, the International Banking Act of 1978, and the regulations of pertinent state banking authorities in the United States. Accordingly, Lloyds represents that is regularly meets a wide range of criteria generally imposed on recognized banks. Lloyds states that it files regular, detailed reports and periodic statistical returns prescribed by the Bank of England that are designed to enable the Bank of England to analyze liquidity and exposure to asset-related and other risks.

Lloyds presently proposed to directly issue and sell short-term commercial paper (the "Notes") in the United States in minimum denominations of $100,000 or more. Lloyds represents that the Notes will be sold through major United States commercial paper dealers to institutional and other sophisticated investors and will not be offered to the general public. The Notes will rank *pari passu* with other unsecured debt securities of Lloyds having the same degree of subordination and senior to the shares of Lloyds. Lloyds plans to sell the Notes without registration under the Securities Act of 1933 (the "1933 Act") in reliance upon an opinion of its United States counsel that the Notes will qualify for the exemption from registration requirements afforded by section 3(a)(3) of the 1933 Act of certain short-term commercial paper. Lloyds represents that it will not issue or sell any Notes until it has received an opinion of its United States counsel that the proposed offering of the Notes would be entitled to such exemption. In the future, Lloyds may issue other debt obligations, in addition to the Notes, the offer and sale of which, like the offer and sale of the Notes, will be subject to the same representations and conditions set forth in its application.

Lloyds America represents that it is a Delaware corporation and is wholly-owned by Lloyds. Lloyds America further represents that its sole function will be to operate as a financing vehicle to raise capital for Lloyds and its subsidiaries for use in current transactions.

Lloyds America proposes to issue and sell in the United States long-term, intermediate-term, or short-term debt securities, including commercial paper. Debt securities issued by Lloyds America will rank *pari passu* with other unsecured debt securities of Lloyds America having the same degree of subordination and senior to the shares of Lloyds America. Lloyds America represents that payment of principal, and premium, if any, and interest on any such debt securities, will be unconditionally guaranteed by Lloyds. Applicants represent that such debt securities will, in effect, be obligations of Lloyds, and that holders of the obligations may look directly to Lloyds for payment. Applicants state that Lloyds' guarantees on long-term debt securities issued by Lloyds America must be made on a subordinated basis in order to comply with provisions of other instruments pursuant to which Lloyds has issued and sold long-term debt securities. Such guarantees will rank *pari passu* with other unsecured debt securities of Lloyds having the same degree of subordination and senior to the shares of Lloyds.

Applicants represent that, prior to issuance of any debt securities in the United States, the obligations will either be registered under the 1933 Act or Applicants will receive an opinion of United States counsel that such obligations are exempt from the registration reguirements of said Act. In the case of a public offering of debt securities requiring registration in the United States, prior to any such offering, Applicants state that they will file a registration statement under the 1933 Act, and that they will not sell such obligations until the registration statement has been declared effective by the Commission. Applicants state that they will comply with the prospectus delivery and all other requirements of the 1933 Act in connection with their proposed offer and sale of registered debt securities. Applicants represent that they may also offer and sell registered debt securities in the United States to the general public, and that such obligations may be sold in minimum denominations of less than $100,000. Applicants further represent that they will not offer or sell, except to their employees, any equity securities in the United States unless the Commission shall have entered on order, or amended the order sought herein, permitting the Applicants to make such offers and sales of equity securities.

With respect to any offering of debt securities not registered under the 1933 Act, Applicants undertake to provide each offeree of the obligations prior to purchase of such obligations, a memorandum (the "Memorandum") which describes the business of the Applicants, including their most recent publicly available audited financial statements examined in accordance with generally accepted accounting principles applicable to United Kingdom banks. Applicants represent that the Memorandum will describe any material differences between United Kingdom accounting standards applicable to Applicants and generally accepted accounting principles employed by United States banking institutions. Applicants further state that the Memorandum and financial statements will be at least as comprehensive as those customarily used by United States issuers offering commercial paper in the United States and will be updated promptly to reflect material changes in the Applicants' business or financial status.

Applicants represent that any issue of debt securities in the United States (not including deposits) shall have received, prior to issuance, one of the three highest investment grades from at least one nationally recognized statistical rating organization and that their United States counsel shall have certified that such rating has been received. However, no such rating shall be required if, in the opinion of Applicants' United States counsel, an exemption from registration is available under section 4(2) of the 1933 Act or Regulation D thereunder.

In connection with their proposed issuance and sale of debt securities in the United States, Applicants undertake to appoint an agent to accept service of process in any action based on the

obligations instituted against either or both of them in any state or federal court by any holder based on the obligations or guarantees thereof. Applicants further undertake to accept the jurisdiction of any state or federal court located in the City of New York in respect of any action based on such obligations and instituted by any holder thereof. Applicants represent that such appointment of an authorized agent to accept service of process and such consent to jurisdiction shall be irrevocable until all amounts due and to become due in respect of the obligations shall have been paid. Neither the issuing agent nor the agent for service for process will be a trustee for the holders of the obligations and will not have any responsibilities or duties to act for such holders as would a trustee. Applicants consent to any order granting the requested relief being expressly conditioned on compliance with all of the representations and undertakings set forth above and in their applications.

Notice is further given that any interested person wishing to request a hearing on the application may not later than November 30, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon an Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-26874 Filed 11-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14786; File 812-6150]

Application and Opportunity for Hearing; Minnesota Mutual Life Insurance Co., et al.

November 5, 1985.

Notice is hereby given that The Minnesota Mutual Life Insurance Company (the "Company"), a mutual life insurance company organized under the laws of Minnesota; Minnesota Mutual Variable Annuity Account (the "Account"), registered under the Investment Company Act of 1940 (the "Act") as a unit investment trust, and with principal executive offices at 400 North Robert Street, St. Paul, Minnesota 55101-2098; and MIMLIC Sales Corporation ("MIMLIC Sales"), an indirect wholly-owned subsidiary of the Company and the principal under writer of the variable annuity contracts funded through the Account, (collectively, "Applicants") filed an application on July 9, 1985 [1] for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit the issuance and sale of variable annuity contracts with the mortality and expense risk charges described below. All interested persons are referred to the application on file with Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant provisions.

Applicants state that the Company established the Account in 1984 as a separate account of the Company for the purpose of funding variable annuity contracts.

Assets of each series of the Account will be invested in shares of a corresponding series of MIMLIC Series Fund, Inc. ("Fund"), a diversified management investment company.

Applicants state that the Company intends to issue through the Account both single payment and flexible payment variable annuity contracts ("contracts"). The flexible payment contracts will permit purchase payments to be made from time to time at the discretion of the contractowner. The single payment contracts will permit purchase payments to be made in a single payment or a series of payments during the twelve month period following the contract date.

Applicants state that prior to the date on which annuity payments begin, the Company will, on the contract anniversary, deduct from the accumulated value of each contract an administrative charge. The administrative charge will also be deducted when a contract is surrendered on any date other than a contract anniversary. The administrative charge is the lesser of: (a) 2% of the accumulation value; or (b) an amount not to exceed $30 per year under the flexible payment variable annuity contract or $20 per year under the single payment variable annuity contract. Applicants represent that the charge is designed to cover the administrative expenses incurred by the Company under the contracts and is based upon the Company's current estimates of the administrative costs attributable to the contracts over their lifetime, is guaranteed never to be increased, and is not designed or expected to generate a profit.

According to the application, no sales charges will be deducted from contract purchase payments as they are made. Instead, a deferred sales charge will be assessed in some circumstances when a contract's accumulation value is reduced by a withdrawal, surrender or applied to provide an annuity. The amount of such deferred sales charge, as a percentage of the amount surrendered, withdrawn or applied to provide an annuity, decreases uniformly during the first ten contract years from an initial charge of 9% under the flexible payment variable annuity contract and 6% under the single payment variable annuity contract to no charge after ten contract years. Applicants state that no deferred sales charge will be made if: (a) Withdrawal occurs after a contract has been in force at least ten contract years, (b) the total accumulation value withdrawn in one calendar year does not exceed 10% of the accumulation value at the end of the previous calendar year, (c) the withdrawal is on account of the annuitant's death, or (d) the contract has been in force for at least five contract years, and the withdrawal is for the purpose of providing annuity payments under an option where payments are expected to continue for at least five years. If withdrawals in a calendar year exceed 10%, the sales charge applies to the amount of the excess withdrawal. Applicants represent that under no circumstances will the sum of the deferred sales charges exceed 9% of total purchase payments.

Applicants state that the Company assumes mortality and expense risks under the contracts and as compensation for assuming these risks it currently proposes to deduct from the Account a charge at the annual rate of 1.25%, consisting of .80% for the mortality risk and .45% for the expense risks. Applicants request exemptions from sections 26(a) and 27(c)(2) to permit the issuance and sale of the contracts with the mortality and expense risk charges at the annual rate of 1.25%. Applicants represent that the

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[1] Applicants will be submitting an amendment to clarify that while the Company reserves the right to charge up to 1.4% for mortality and expense risk charges, it is currently seeking relief only for 1.25%. To the extent required, additional exemptive relief will be requested prior to any increase in this charge from 1.25%

charge is within the range of industry practice for comparable annuity products. Applicants state that this representation is based upon an analysis made by the Company of publicly available information about selected similar industry products, taking into consideration such factors as any contractual right to increase charges above current levels, the guaranteed annuity pruchase rates and the existence of charges against separate account assets for other than mortality and expense risks. Applicants further state that the Company will maintain at its principal office, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, the comparative survey made.

Applicants acknowledge that the deferred sales charge may be insufficient to cover all costs relating to the distribution of the contracts and that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be used to offset distribution expenses not reimbursed by the deferred sales charge. Applicants acknowledge that in such circumstance a portion of the mortality and expense risk charge might be viewed as providing for a portion of the costs relating to distribution of the contracts. Notwithstanding the foregoing, the Company has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements made with respect to the contracts will benefit the Account and the contractowners. Moreover, the Company represents that the Account will invest only in an underlying mutual fund which undertakes, in the event it should adopt any plan under Rule 12b-1 to finance distribution expenses, to have such plan formulated and approved by a board of directors, a majority of the members of which are not "interested persons" of such fund within the meaning of section 2(a)(19) of the Act.

Applicants assert that, based on the facts and representations summarized above, the requested exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice Is Further Given that any interested person wishing to request a hearing on the application may, not later than December 2, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-26875 Filed 11-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-22597; File No. SR-NYSE-85-39]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

On October 23, 1985, the New York Stock Exchange, Inc. ("NYSE") submitted a proposed rule change, pursuant to section 19(b) of Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to extend the effective period of the operation of the Registered Representative Rapid Response ("R4") Service to March 7, 1986. The NYSE's R4 service, allows a registered representative in participating broker-dealer firms to execute, in its office, an order of a specified sized (currently no more than 299 shares) in eligible securities at the prevailing consolidated quotation, and then report the execution to the specialist in the stock who guarantees that price for the customer. The execution is then reported by the specialist to the consolidated tape.

The R4 program was begun on a six-month pilot basis in September 1982 [1] with two member organizations participating. On March 8, 1983, the Commission extended the R4 program for a one-year period, through March 14, 1984 [2], and on November 4, 1983, the Commission determined to extend the R4 program for another one-year period.[3] On November 2, 1984 the program was extended for a period of 60 days,[4] and on January 18, 1985, the program was extended for another one-year period.[5] The R4 program is currently scheduled to expire on November 7, 1985.

The NYSE indicates that R4 trading, as measured by both number of executions and share volume, remains very low as compared to overall trading volume on the NYSE. This low overall volume continues to make it difficult for the NYSE to evaluate comprehensively the impact of R4 trading on the quality of the NYSE market, and the NYSE has not considered it feasible to expand R4 during the past year.

The NYSE is requesting that R4 be extended to March 7, 1986 so that it may obtain the views of the two member organizations currently using the service, as to the continued viability of the R4 program. The NYSE has stated that it will advise the Commission of its future plans for the R4 program, prior to the termination of the extension period requested herein.

The Commission is publishing this release to solicit comment on the proposed rule change. Persons interested in commenting on the proposal should submit six copies of their comments within 21 days from the date of publication in the **Federal Register.** Comments should be sent to the Secretary of the Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the proposed rule change, and all documents relating to the proposed rule change, except those that may be withheld from the public pursuant to 15 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room. Copies of the filing also are available at the NYSE.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NYSE, and in particular, the requirements of sections 11(A)(1) and 17A(a)(1) and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that accelerated approval will benefit public investors by precluding a temporary suspension and disruption of R4 service.

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[1] *See* Securities Exchange Act Release No. 19047, (Septemer 14, 1982); 47 FR 41896.

[2] *See* Securities Exchange Act Release No. 19573, (March 8, 1983); 48 FR 10789.

[3] *See* Securities Exchange Act Release No. 20350, (November 4, 1983); 48 FR 51722.

[4] *See* Securities Exchange Act Release No. 21454, (November 2, 1984); 48 FR 49742.

[5] *See* Securities Exchange Act Release No. 21675, (January 18, 1985); 50 FR 3859.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 5, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-26872 Filed 11-8-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22595; File No. SR-PSDTC-85-6]

Self-Regulatory Organizations; Order Granting Temporary Approval of a Proposed Rule Change of Pacific Securities Depository Trust Co.

On August 19, 1985 Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). Notice of the proposal was published in Securities Exchange Act Release No. 22408 (September 16, 1985), 50 FR 38602 (September 23, 1985). No comments were received. As discussed below, the Commission is approving the proposed rule change on a temporary basis through April 30, 1986.

The rule change replaces PSDTC's manual processing of participant request for securities certificates with a new automated system called the Automated Transfer Service ("ATS"). PSDTC has sucessfully operated ATS as a pilot program for approximately two years and now is making it available to all participants. ATS does not affect withdrawals for trades settling outside the depository.

ATS enables participants to submit requests for certificates, on a daily basis, by computer tape or automated transmission. Participants also may continue to submit paper instructions. PSDTC, however, will enter those instructions into its automated system for processing. To expedite the processing of paper instructions, PSDTC has revised its transfer forms. Also, PSDTC will provide each participant with daily reports listing all current transfer requests, all items rejected and all items ready for pick-up.

PSDTC believes that the proposal is consistent with section 17A(b)(3)(F) of the Act because it would simplify the processing of transfer requests and, therefore, would facilitate the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds. The Commission agrees with PSDTC that the proposal facilitates the prompt and accurate clearance and settlement of securities transactions by integrating PSDTC's existing manual and automated transfer processing procedures into one automated system. Thus the Commission believes the proposal is consistent wtih the Act and is approving the rule change on a temporary basis through April 30, 1986.

The Commission is approving PSDTC's proposal on a temporary basis pending final approval of PSDTC's Participant Terminal System. Because the proposal is integrally related to that system and PSDTC expects final regulatory approval of that system within the next six months, the Commission believes good cause exists for approving the proposal on a temporary basis.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule change be, and hereby is approved through April 30, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 4, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-26873 Filed 11-8-85; 8:45 am]

BILLING CODE 8010-01-M

SUSQUEHANNA RIVER BASIN COMMISSION

Project for Storage and Release of Water at Cowanesque Lake; Public Hearing

Notice is hereby given that the Susquehanna River Basin Commission will hold a public hearing on Wednesday, December 11, 1985, at the Williamson High School, U.S. Rt. 15, R.D. #2, Tioga, Pennsylvania, beginning at 7:00 p.m. The purpose of this hearing will be to receive public comments on a proposal by the Commission to undertake a project for storage and release of water at the Cowanesque Lake Project, Tioga County, Pennsylvania. Cowanesque Lake is a flood control and recreation reservoir operated by the Baltimore District of the U.S. Army Corps of Engineers. Under the Commission's proposal, storage waters released from the Cowanesque Lake would replace water consumed (i.e., withdrawn from it source and not returned thereto) by large downstream users. Commission regulation 18 CFR § 803.61 requires users, consuming large quantities of water, such as electric utility companies, to provide consumptive use make-up under certain low flow conditions. This regulations seeks to protect the environment and the public welfare by helping to insure that there will be sufficient flows in basin streams to meet downstream water needs, including those of instream water uses.

Article 4, section 4.2 of the Susquehanna River Basin Compact, Pub. L. 91-575 authorizes implementation of projects for storage and release by the Commission. Authorized purposes for storage projects include regulation of flows and supplies of surface and ground waters, protection of public health, and stream quality control. Before implementing such a project, however, Article 4, section 4.4 also requires that, to insure coordination, the Commission "review and consider all existing rights, plans and programs of the signatory parties, their politicial subdivisions, private parties, and water users which are pertient to such project . . ." In addition to this legal requirement of the Compact, the State of New York and local interests in the project area requested that the Commission assess the impacts of the proposed storage project on the environment of the project area, including its surface and groundwater resources.

To meet the requirements of the Compact and to address the concerns of the State of New York and local interests, the Commission has completed a series of special studies. These studies were designed, among other things, to: 1) Complete the review of rights, plans and programs as required by the Compact; 2) Assess environmental impact; and 3) Develop procedures for managing and operating the storage project.

In accordance with Article 4, section 4.4 of the Compact, the Commission will submit the proposed storage project and the findings of the special studies to the above mentioned public hearing. If, after assessing the results of the special studies and the public hearing record, the Commission finds in favor of the storage project, it is the Commission's intent to execute a contract with the U.S. Government under the Water Supply Act of 1958, Pub. L. 85-500, to place the water into storage at Cowanesque to elevation 1,080 feet. This action is conditioned upon concurrent execution of contracts with downstream water users who will pay for the storage and management services provided by the Commission.

The December 11th hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views

and comments on the proposed storage project and the findings of the special studies. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given the opportunity to be heard whether or not they have given such notice. Written comments may also be sent to the Commission at the address stated below.

A Main Report describing the proposed project and summarizing the findings of the special studies is available upon request to the Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102-2391. The individual study reports comprising the special studies form the Appendix of the Main Report and will be available for public review at the following locations during regular business hours: (1) The Susquehanna River Basin Commission headquarters building, 3rd Floor, 1721 N. Front St., Harrisburg, Pa.; (2) The Green Free Library, Reference Section, 134 Main St., Wellsboro, Pa.; (3) Mansfield University Main Library, Circulation Desk, Mansfield, Pa.; (4) the Corning Public Library, Information Desk, Denison Parkway East, Corning, N.Y.; (5) Steele Memorial Library, Reference Department, Main Library, 1 Library Plaza, Elmira, N.Y.; (6) Corps of Engineers Office, Ives Run Recreation Area, Administrative Office, 5 miles south of the Borough of Tioga, Pa.; (7) Southern Tier Central Regional Planning Board, 53½ Bridge St., Corning, N.Y.; (8) N.Y. Dept. of Environmental Conservation, Region 8, 6274 E. Avon-Lima Rd., Avon, N.Y.; (9) Pa. Dept. of Environmental Resources, Williamsport Regional Office, 200 Pine St., Williamsport, Pa.; (9) Williamson High School Library, U.S. Rt. 15, R.D. #2, Tioga, Pa.; (10) Susquehanna River Tri-State Association, 441 Stark Learning Center, Wilkes College, Wilkes-Barre, Pa.

For further information contact Richard A. Cairo, Secretary to the Commission, Susquehanna River Basin Commission, 1721 N. Front St., Harrisburg, Pa. 17102-2391, (717) 238-0423.

Dated: November 4, 1985.

Robert J. Bielo,

Executive Director.

[FR Doc. 85-26790 Filed 11-8-85; 8:45 am]

BILLING CODE 7040-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. IP85-10; Notice 2]

Firestone Tire & Rubber Co; Grant of Petition for Determination of Inconsequential Noncompliance

This notice grants the petition by Firestone Tire and Rubber Company of Akron, Ohio, to be exempt from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for a noncompliance with 49 CFR 571.109, Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires—Passenger Cars." The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on July 12, 1985, and an opportunity afforded for comment (50 FR 28488).

Paragraph § 4.3 of Standard No. 109 requires each time to be labeled with seven items of information to be molded into or onto both sidewalls. These are size designation, the maximum permissible inflation pressure, the maximum load rating, the generic name of the cord material used in the plies, and actual number of plies in the sidewall (and the actual number of plies in the tread area if different) the words "tubeless" or "tube type" as applicable, and the word "radial" if the time is a radial ply tire. Firestone produced approximately 106,311 various brandnamed passenger car tires where the word "tubeless" does not appear on the serial side of these white side-walled tires. Firestone impounded 12,565 tires in its possession and all recovered tires will be branded with the word "Tubeless" on the serial side to conform to Standard No. 109. Therefore, this petition affects 93,746 passenger car tires manufactured during 1983, 1984 and through June 1, 1985.

The petitioner argued that the noncompliance was inconsequential as it relates to motor vehicle safety as (1) all tires affected are white sidewalled and the word "tubeless" appears on the whitewall side and most, if not all tires would be mounted with the correct information facing the outside of the vehicle; (2) Firestone does not manufacture any size and type combination of the tires concerned that are tube type and, therefore, the tires could only be sold as tubeless; and (3) if the consumer used the tire as a tube type, and mounted the tire using a tube, the tire would perform in a satisfactory manner.

No comments were received on the petition.

NHTSA believes that consumers, paying a premium price for a white-sidewalled tire, will mount it with the white side outward that correctly bears the word "tubeless". Even if the serial side is mounted outwards, the omission of the word should cause no confusion as virtually all tires in the replacement market are of tubeless construction. Even if a tube should be inserted, that would present no safety problem. NHTSA also notes that the tire is certified as meeting all the performance requirements of Standard No. 109.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby granted.

The engineer and attorney primarily responsible for this notice are Art Casanova and Taylor Vinson, respectively.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on November 5, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-26824 Filed 11-8-85; 8:45 am]

BILLING CODE 4912-59-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Date: November 4, 1985.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

U.S. CUSTOMS SERVICE

OMB Number: 1515-0101.
Form Number: None.
Type of Review: Extension.
Title: Records of Serially Numbered Substantial Holders or Containers.
OMB Number: 1515-0009.
Form Number: CF 3495.
Type of Review: Extension.

Title: Application for Exportation of Articles Under Special Bond.

OMB Number: 1515–0102 and 1515–0103.

Form Number: None.

Type of Review: Extension.

Title: Request for Internal Advice or Adminisistrative Ruling 19 CFR 177.2, 177.11.

Clearance Officer: Vince Olive (202) 566–9181, U.S. Customs Service, Room 6321, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0395.

Form Number: ATF F 5100.32.

Type of Review: Extension.

Title: Certificate for Distilled Spirits Exported to Italy.

Clearance Officer: Howard Hood (202) 566–7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226.

OMD Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208 New Executive Office Building, Washington, D.C. 20503.

Internal Revenue Service

OMB Number: 1545–0635.

Form Number: Form 6789.

Type of Review: Extension.

Title: Performance Appraisal (For Non-IRS Candidates Only).

Clearance Officer: Garrick Shear (202) 566–6150, Room 5571, 1111 Constitution Avenue, NW., Washington, D.C. 20224.

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joseph F. Moty,

Departmental Reports, Management Office.

[FR Doc. 85–26802 Filed 11–8–85; 8:45 am]

BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 218

Tuesday, November 12, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMISSION ON CIVIL RIGHTS

PLACE: Room 512, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Tuesday, November 12, 1985, 8:00 a.m.—12:00 noon.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Staff Director's Report
IV. Possible Executive Session to Discuss Internal Personnel Matters
V. Presentation on School Desegregation Project: Dr. Finis Welch, UNICON Research Corporation
VI. Action on SAC Reports: Participation of Minority and Women Contractors in the Northeast Corridor Improvement Project (NECIP)
Minorities and Women as Government Contractors—Kansas
Industrial Revenue Bonds: Equal Opportunity in Chicago's IRB Program
Police-Community Relations in Omaha
VII. Appointments to State Advisory Committees (3)
VIII. Project Design Summary: Voting Rights Study
IX. Civil Rights Developments in the Central States Region

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 376-8312.

Lawrence B. Glick,

Solicitor.

[FR Doc. 85-26947 Filed 11-7-85; 2:15 pm]

BILLING CODE 6335-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 6, 1985.

TIME AND DATE: 10:00 a.m., Wednesday, November 13, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Closed [Pursuant to 5 U.S.C. § 552b(c)(10).

MATTERS TO BE CONSIDERED: The Commission will consider and act on the following:

1. Notification of possible ex parte communication in *Secretary of Labor on behalf of Beavers, et al.* v. *Kitt Energy Corporation,* Docket No. WEVA 85-73-D.
2. Consideration of Commission Procedural Rule 44, 29 CFR § 2700.44, dealing with temporary reinstatement of miners pursuant to section 105(c)(2) of the Mine Act.

It was determined by a unanimous vote of Commissioners that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION Jean Ellen 202-653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 26971 Filed 11-7-85; 3:53 pm]

BILLING CODE 6735-01-M

3

MERIT SYSTEMS PROTECTION BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 50 FR 41782, October 15, 1985.

CHANGE IN THE MEETING: The following items were deleted from the October 22, 1985 closed meeting:

1. *Logan* v. *Department of the Navy,* MSPB Docket No. NY07528510187.
2. *Gwynn* v. *United States Postal Service,* MSPB Docket No. DE07528410173.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Dated: November 6, 1985.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 85-26878 Filed 11-6-85; 4:49 pm]

BILLING CODE 7400-01-M

4

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Thursday, November 14, 1985.

PLACE: 1776 G Street, NW., Washington, D.C. 20456, Filene Board Room, 7th Floor.

STATUS: OPEN.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Insurance Fund Report.
4. Federal Credit Union Loan Interest Rate Ceiling.
5. Authority of Federal Credit Unions to Offer Self-Directed IRA and Keogh Accounts.
6. Federal Financial Institution Examination Council Supervisory Policy on Repurchase Agreements of Depository Institutions with Securities Dealers and Others.
7. Report on Supervisory Committee Manual.
8. Appeal of Regional Director's Denial of Charter Amendment for Ellsworth AFB FCU (South Dakota).

RECESS: 10:30 a.m.

TIME AND DATE: 10:45 a.m., Thurday, November 14, 1985.

PLACE: 1776 G Street, NW., Washington, D.C. 20456, Filene Board Room, 7th Floor.

STATUS: CLOSED.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357-1100

Rosemary Brady,

Secretary of the Board.

[FR Doc. 85-26921 Filed 11-7-85; 2:07 pm]

BILLING CODE 7535-01-M

federal register

Tuesday
November 12, 1985

Part II

Department of the Treasury

Office of Foreign Assets Control

31 CFR Part 545

South African Transactions Regulations; Final Rule

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 545

South African Transactions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Foreign Assets Contol is amending the South African Transactions Regulations to prohibit financial institutions in the United States from making loans to the South African Government or its controlled entities, and for other purposes.

EFFECTIVE DATE: 12:01 a.m. Eastern Standard Time, November 11, 1985.

FOR FURTHER INFORMATION CONTACT: Marilyn L. Muench, Chief Counsel, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220; 202/376-0408.

SUPPLEMENTARY INFORMATION: On September 9, 1985, the President issued Executive Order 12532, finding that the policies and actions of the Government of South Africa constitute an unusual and extraordinary threat to the foreign policy and economy of the United States and invoking the authority, *inter alia*, of the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*). Among other measures taken through the Executive Order, the President prohibited financial institutions in the United States from making or approving loans to the South African Government or its controlled entities, except in certain narrowly specified circumstances. The order delegated authority to implement the loan prohibitions to the Secretary of the Treasury. These amendments to the South African Transactions Regulations, including the definitions of certain terms used therein, have been adopted for the sole purpose of implementing the provisions of the Executive Order.

Since the regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply. Because the regulations are issued with respect to a foreign affairs function of the United States, they are not subject to Executive Order 12291 of February 17, 1981, dealing with Federal Regulations. The information collection requests contained in this document are being submitted to the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq*. Notice of OMB action on these requests will be published in the **Federal Register**.

List of Subjects in 31 CFR Part 545

South Africa, Imports, Krugerrands, Loans, Penalties, Reporting and recordkeeping requirements.

PART 545—AMENDED

31 CFR Chapter V, Part 545, is amended as set forth below:

1. The "Authority" citation for Part 545 is revised to read as follows:

Authority: 50 U.S.C. 1701 et seq.; E.O. 12532, 50 FR 36861, Sept. 9, 1985; E.O. 12535, 50 FR 40325, October 3, 1985.

2. The table of contents for Part 545 is amended by adding entries for § 545.202 to Subpart B, §§ 545.303–545.310 to Subpart C, §§ 545.404–545.410 to Subpart D, §§ 545.503 and 545.504 to Subpart E, and by adding a new Subpart I as follows:

* * * * *

3. New § 545.202 is added to read as follows:

§ 545.202 Prohibition on loans to the Government of South Africa.

(a) Except as authorized under this part, no financial institution in the United States may make or approve any loan, directly or indirectly, to the Government of South Africa as defined in this part.

(b) The prohibition in paragraph (a) of this section shall not apply to any loan which a financial institution in the United States is obligated to make under an agreement entered into before September 9, 1985.

4. Section 545.203 is revised to read as follows:

§ 545.203 Effective dates.

(a) The effective date of the prohibition in § 545.201 shall be 12:01 a.m. Eastern Daylight Time, October 11, 1985.

(b) The effective date of the prohibition in § 545.202 shall be 12:01 a.m. Eastern Standard Time, November 11, 1985.

5. New § 545.303 is added to read as follows:

§ 545.303 Importation.

The term "importation" means the bringing of any item within the jurisdictional limits of the United States with the intent to unlade it.

6. New § 545.304 is added to read as follows:

§ 545.304 Loan.

The term "loan" means any transfer or extension of funds or credit on the basis of an obligation to repay, or any assumption or guarantee of the obligation of another to repay an extension of funds or credit. The term "loan" includes, but is not limited to: Overdrafts; currency swaps; the purchase of debt securities issued by the South African Government after November 11, 1985; the purchase of a loan made by another person; the sale of financial assets subject to an agreement to repurchase; and a renewal or refinancing whereby funds or credits are transferred or extended to the South African Government. The term "loan" does not include reschedulings of existing loans under § 545.404.

7. New § 545.305 is added to read as follows:

§ 545.305 Financial institution.

The term "financial institution" means any entity engaged in the business of accepting deposits or making, transferring, holding, or brokering loans, including, but not limited to, banks, savings banks, trust companies, savings and loans associations, credit unions, securities brokers and dealers, investment companies, employee pension plans, holding companies of such institutions, and subsidiaries of any of the foregoing.

8. New § 545.306 is added to read as follows:

§ 545.306 Government of South Africa; South African Government.

The terms "Government of South Africa" and "South African Government" include the national government of South Africa; the South African Reserve Bank; the government of any political subdivision of South Africa; the government of any territory under the dominion of South Africa; the government of any "homeland" established under the apartheid system, including Bophuthatswana, Ciskei, Transkei, and Venda; and any entity controlled by the South African Government, as defined in § 545.307.

9. New § 545.307 is added to read as follows:

§ 545.307 Entity controlled by the South African Government.

The term "entity controlled by the South African Government" includes any corporation, partnership, association or other entity in which the South African Government owns a majority or controlling interest, any entity managed or substantially funded by that government, and any entity which is otherwise controlled by that government.

10. New § 545.308 is added to read as follows:

§ 545.308 Person.

The term "person" means an individual or an entity.

11. New § 545.309 is added to read as follows:

§ 545.309 Entity.

The term "entity" means a corporation, partnership, association, or other organization.

12. New § 545.310 is added to read as follows:

§ 545.310 Affiliate.

The term "affiliate" includes, but is not limited to, a branch or a subsidiary.

13. New § 545.404 is added to read as follows:

§ 545.404 Rescheduling existing loans to the South African Government.

Provided that no funds or credits are thereby transferred or extended to the Government of South Africa, § 545.202 does not prohibit a financial institution in the United States from rescheduling loans to the South African Government or otherwise extending the maturities of such loans, or from charging fees, or interest at commercially reasonable rates, in connection therewith.

14. New § 545.405 is added to read as follows:

§ 545.405 Trade related credits.

(a) Section 545.202 prohibits financial institutions in the United States from opening, issuing, or confirming letters of credit or similar trade credits for which the Government of South Africa is the account party, except those which have been fully collateralized in such institution by the South African Government in advance of payment. Section 545.202 also prohibits financial institutions in the United States from creating or discounting acceptances or similar instruments to provide financing for the South African Government, except acceptances which have been fully funded in such institutions by the South African Government in advance of creation or discounting.

(b) Section 545.202 does not prohibit financial institutions in the United States from opening, issuing, or confirming letters of credits or similar trade credits respecting exports of the South African Government. Section 545.202 does not prohibit financial institutions in the United States from creating or discounting acceptances respecting exports of the South African Government.

15. New § 545.406 is added to read as follows:

§ 545.406 Loans through intermediaries.

Section 545.202 prohibits a financial institution in the United States from making a loan to any person in the United States or a foreign country, where the institution has reason to believe that the loan is being obtained for or on behalf of the South African Government, and that the relevant funds or credit will be made available to the South African Government.

16. New 545.407 is added to read as follows:

§ 545.407 Substitution of the South African Government as obligor.

Section 545.202 does not prohibit a financial institution in the United States from complying with applicable laws, regulations or other directives of the South African Government requiring or permitting the South African Government to become the primary or secondary obligor with respect to an outstanding loan, provided that no funds or credits are thereby transferred or extended to the South African Government.

17. New § 545.408 is added to read as follows:

§ 545.408 Approval of loans by foreign affiliates.

Section 545.202 prohibits financial institutions in the United States from approving loans by their foreign affiliates to the South African Government.

18. New § 545.409 is added to read as follows:

§ 545.409 Loan participations.

Section 545.202 prohibits a financial institution in the United States from purchasing, or otherwise acquiring a participation in, all or part of any loan made by any other person or persons to the South African Government, regardless of the date of the original loan, unless such financial institution is obligated to make the purchase under an agreement entered into before September 9, 1985, or such acquisition is incidental to the purchase or acquisition of an institution or all or substantially all of the assets of an institution that has made or acquired participations in such loans.

19. New § 545.410 is added to read as follows:

§ 545.410 South African law.

If, under applicable laws of South Africa, a financial institution in the United States cannot obtain enough information from a person in South Africa to enable it reasonably to conclude that a loan is not being obtained for or on behalf of the South African Government, § 545.202 prohibits the loan.

20. New § 545.503 is added to read as follows:

§ 545.503 Loans for educational, housing, or health facilities.

Specific licenses may be issued to financial institutions in the United States authorizing them to make loans to the South African Government, where the loans will be used to benefit all persons on a non-discriminatory basis, and where it is determined that the loans are for educational, housing, or health facilities.

21. New § 545.504 is added to read as follows:

§ 545.504 Loans to benefit persons disadvantaged by the apartheid system.

Specific licenses may be issued to financial institutions in the United States authorizing them to make loans to the South African Government, where it is determined that the loans will improve the welfare or expand the economic opportunities of persons in South Africa disadvantaged by the apartheid system. No such loan will be authorized to any apartheid enforcing entity.

22. New Subpart I, consisting of § 545.901 which is reserved, is added to read as follows:

Subpart I—Miscellaneous

§ 545.901 Paperwork Reduction Act Notice [Reserved.]

Dated: November 6, 1985.

Dennis M. O'Connell,

Director, Office of Foreign Assets Control.

Approved: November 8, 1985.

E.T. Stevenson,

Acting Assistant Secretary, Enforcement and Operations.

[FR Doc. 85-27009 Filed 11-12-85; 12:44 pm]

BILLING CODE 4810-25-M

federal register

Tuesday
November 12, 1985

Part III

Securities and Exchange Commission

17 CFR Part 240

Proposed Amendments to Tender Offer Rules; Reopening of Comment Period

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release Nos. 33-6610; 34-22603; IC-14790; File Nos. S7-34-85 and S7-35-85]

Proposed Amendments to Tender Offer Rules

AGENCY: Securities and Exchange Commission.

ACTION: Reopening of comment period.

SUMMARY: The Securities and Exchange Commission is reopening the period for public comment to provide interested persons additional time to comment on certain recent issuer and third-party tender offer rule proposals pertaining to equal treatment of security holders and time period provisions.

DATE: Comments should be received on or before December 10, 1985.

ADDRESSES: Comments should be submitted in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comment letters should refer to File Nos. S7-34-85 and S7-35-85. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

FOR FURTHER INFORMATION CONTACT: Sarah A. Miller (202) 272-2589, Office of Disclosure Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is reopening the period for public comment on proposed amendments to Regulations 13E, 14D and 14E [1] pertaining to tender offers. These amendments were proposed on July 1, 1985 [2] and the comment period initially closed on September 9, 1985. While the Commission received substantial commentary on the proposals,[3] it believes that it would be appropriate to provide interested persons an additional opportunity to comment. In this regard, the Commission notes that there will be a forum discussion of issues raised by recent judicial and other takeover developments, between the members of the Commission and invited representatives from the business, financial, legal and academic communities, on November 26, 1985.[4] Discussions at this forum may include certain aspects of the proposals published on July 1, 1985.

By the Commission.

John Wheeler,

Secretary.

November 8, 1985.

[FR Doc. 85-27005 Filed 11-12-85; 12:17 pm]

BILLING CODE 8010-01-M

[1] 17 CFR 240.13e-1-101, 240.14d-1-101 and 240.14e-1—14e-3.

[2] With respect to third-party rules, *see* Release No. 33-6595 (July 1, 1985), 50 FR 27976 (July 9, 1985); File No. S7-34-85. With respect to issuer tender offer rules, *see* Release No. 33-6596 (July 1, 1985), 50 FR 28210 (July 11, 1985); File No. S7-35-85.

[3] The 72 letters of comments received are available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. *See* File Nos. S7-34-85 and S7-35-85.

[4] In order to assist persons who wish to respond to comments made at this meeting, a transcript will be placed in File Nos. S7-34-85 and S7-35-85 immediately following the meeting.

Tuesday
November 12, 1985

Part IV

Environmental Protection Agency

40 CFR Part 271

Pennsylvania; Final Authorization of State Hazardous Waste Management Program; Tentative Determination on Application, Public Hearing and Public Comment Period

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-3-FRL-2923-5]

Pennsylvania; Final Authorization of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Tentative Determination on Pennsylvania's Application for Final Authorization, Public Hearing and Public Comment Period.

SUMMARY: The Commonwealth of Pennsylvania has applied for Final Authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed Pennsylvania's application and has made the tentative decision that Pennsylvania's hazardous waste management program satisfies all of the requirements necessary to qualify for Final Authorization. Thus, EPA intends to grant Final Authorization to the Commonwealth to operate its hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, Nov. 8, 1984) (HSWA). Pennsylvania's application for Final Authorization is available for public review and comment and a public hearing will be held to solicit comments on the application.

DATES: A public hearing is scheduled for Thursday, December 12, 1985, at 7:30 p.m. Pennsylvania will participate in the public hearing held by EPA on this subject. All written comments on Pennsylvania's Final Authorization application must be received by the close of business on Friday, December 13, 1985.

ADDRESSES: A copy of Pennsylvania's Final Authorization application is available from 8:00 a.m. to 4:00 p.m. at the following Pennsylvania Department of Environmental Resources' offices for inspection and copying:

Pennsylvania Department of Environmental Resources, Bureau of Waste Management, Central Office, Fulton Bank Building, 3rd and Locust Streets, P.O. Box 2063, Harrisburg, PA 17120, Contact: Leon Kuchinski, (717) 787-6239;

Pennsylvania Department of Environmental Resources, Bureau of Waste Management, Norristown Regional Office, 1875 New Hope Street, Norristown, PA 19401, Contact: Wayne L. Lynn, (215) 270-1920;

Pennsylvania Department of Environmental Resources, Bureau of Waste Management, Wilkes-Barre Regional Office, 90 East Union Street, 2nd Floor, Wilkes-Barre, PA 18701, Contact: David Lamereaux, (717) 826-2516;

Pennsylvania Department of Environmental Resources, Bureau of Waste Management, Harrisburg Regional Office, One Ararat Boulevard, Harrisburg, PA 17110, Contact: Mike Steiner, (717) 657-4588;

Pennsylvania Department of Environmental Resources, Bureau of Waste Management, Williamsport Regional Office, 200 Pine Street, Williamsport, PA 17701, Contact: Richard Bittle, (717) 327-3653;

Pennsylvania Department of Environmental Resources, Bureau of Waste Management, Pittsburgh Regional Office, Highland Building, 121 South Highland Avenue, Pittsburgh, PA 15206-3988, Contact: Charles Duritsa, (412) 665-2900;

Pennsylvania Department of Environmental Resources, Bureau of Solid Waste Management, Meadville Regional Office, 1012 Water Street, Meadville, PA 16335, Contact: Russell L. Crawford, (814) 724-8526.

A copy is also available from 8:00 a.m. to 4:30 p.m. at the following EPA libraries for inspection and copying:

U.S. Environmental Protection Agency, Region III, Library, 841 Chestnut Building, Philadelphia, PA 19107, Contact: Diane McCreary, (215) 597-7904;

U.S. Environmental Protection Agency, Headquarters Library, PM-211A, 401 M Street, S.W., Washington, DC 20460, (202) 382-5926.

Written comments on the Pennsylvania application must be sent to John J. Humphries, Program Manager, Pennsylvania Section, Waste Management Branch (3HW33), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-8116.

EPA will hold a public hearing on Pennsylvania's application for Final Authorization on Thursday, December 12, 1985. The hearing will be held at the Heritage Room A, Harristown #2, 333 Market Street, Harrisburg, Pennsylvania at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: John J. Humphries, Program Manager, Pennsylvania Section, Waste Management Branch (3HW33), U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, (215) 597-8116.

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize State hazardous waste programs to operate in the State in lieu of the Federal hazardous waste program, subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984. Two types of authorization may be granted. The first type, known as "Interim Authorization", is a temporary authorization which is granted if EPA determines that the State program is "substantially equivalent" to the Federal program (section 3006(c), 42 U.S.C. 6926(c)). EPA's implementing regulations at 40 CFR 271.121-271.137 established a phased approach to Interim Authorization: Phase I, covering the EPA regulations in 40 CFR Parts 260-263, and 265 (universe of hazardous wastes, generator standards, transporter standards, and standards for interim status facilities) and Phase II, covering the EPA regulations in 40 CFR Parts 124, 264 and 270 (procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase II A covers general permitting procedures and technical standards for containers and tanks. Phase II B covers permitting of incinerator facilities, and Phase II C addresses permitting of landfills, surface impoundments, waste piles, and land treatment facilities. By statute, all Interim Authorizations expire on January 31, 1986. Responsibility for the hazardous waste program returns (reverts) to EPA on that date if the State has not received Final Authorization, as described below.

The second type of authorization is "Final Authorization" that is granted by EPA if the Agency finds that the State's program is (1) "equivalent" to the Federal program, (2) consistent with the Federal program and other State programs, and (3) provides for adequate enforcement (section 3006(b) 42 U.S.C 6926(b)). States need not have obtained Interim Authorization in order to qualify for Final Authorization. EPA regulations for Final Authorization appear at 40 CFR 271.1-271.23.

B. The Commonwealth of Pennsylvania

The Commonwealth received Interim Authorization for Phase I on May 26, 1981. The Commonwealth originally intended to obtain selected components of Phase II Interim Authorization. However, after Phase II Component C was promulgated by EPA, Pennsylvania

saw no merit in seeking Phase II Interim Authorization and Final Authorization at the same time. In order to prevent an unnecessary duplication of effort in a dual authorization process, the Commonwealth did not apply for Phase II Interim Authorization.

On January 31, 1984, the Commonwealth submitted a draft application for Final Authorization to EPA. Due to various regulatory deficiencies, Pennsylvania published revised regulations in the *Pennsylvania Bulletin* on March 9, 1985, June 1, 1985, and September 14, 1985. Also, the Commonwealth submitted components of a revised draft application for Final Authorization between April of 1985 and September of 1985. Upon receipt of each document, EPA reviewed the document and provided the Commonwealth with comments. After modifying its revised draft application and amending its regulations in accordance with EPA's comments, the Commonwealth of Pennsylvania submitted its official application for Final Authorization on October 16, 1985.

Prior to submission of the official application to EPA, Pennsylvania solicited public comments and held a public hearing on its draft application on August 8, 1985. A total of six (6) persons commented on the proposed application during the public comment period, including three (3) persons who provided oral testimony at the public hearing. Copies of the written comments and oral testimony are contained within Pennsylvania's Final Authorization application. In addition, the Commonwealth's response to these written and oral comments is in the application.

EPA has reviewed Pennsylvania's application, and has tentatively determined that the Commonwealth's program meets all of the requirements necessary to qualify for Final Authorization. Consequently, EPA intends to grant Final Authorization to Pennsylvania to operate its program subject to the limitations on its authority imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA). In accordance with section 3006 of RCRA and 40 CFR 271.20(d), the Agency will hold a public hearing on its tentative determination on Thursday, December 12, 1985, at the Heritage Room A, Harristown #2, 333 Market Street, Harrisburg, Pennsylvania at 7:30 p.m. The public may also submit written comments on EPA's tentative determination until Friday, December 13, 1985. A copy of Pennsylvania's application is available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

EPA will consider all public comments on its tentative determination received at the hearing or during the public comment period. Issues raised by those comments will be considered in making a final determination on Pennsylvania's Final Authorization application. EPA's final decision whether to approve the Commonwealth's program will be based, in part, on Pennsylvania's ability to maintain the current level of performance. EPA expects to make a final decision on whether or not to approve Pennsylvania's program within 90 days, and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all significant comments.

C. Effect of HSWA on Pennsylvania's Authorization

Prior to the Hazardous and Solid Waste Amendments amending RCRA, a State with final Authorization would have administered its hazardous waste program entirely in lieu of EPA. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under the amended section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized states at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

As a result of the HSWA, there will be a dual State/Federal regulatory program in Pennsylvania if final RCRA authorization is granted. To the extent the authorized State program is unaffected by the HSWA, the Commonwealth's program will operate in lieu of the Federal program. To the extent HSWA-related requirements are in effect, EPA will administer and enforce these portions of the HSWA in Pennsylvania until the Commonweath receives authorization to do so. Among other things, this will entail the issuance of Federal RCRA permits for those areas in which the Commonwealth is not yet authorized. Once the Commonwealth is authorized to implement a HSWA requirement or prohibition, the Pennsylvania program in that area will operate in lieu of the Federal provision. Until that time the Commonwealth may assist EPA's implementation of the HSWA under a Cooperative Agreement.

Today's tentative determination does not include authorization of Pennsylvania's program for any requirement implementing the HSWA. Any Commonwealth requirement that is more stringent than a Federal HSWA provision will also remain in effect; thus, regulated handlers must comply with any more stringent Pennsylvania requirements. EPA has published a **Federal Register** notice that explains in detail the HSWA and its effect on authorized States. That notice was published at 50 FR 28702–28755, July 15, 1985.

Compliance with Executive Order 12291: The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act: Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain Federal regulations in favor of Pennsylvania's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the Commonwealth. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b). EPA Delegations 7.

Dated: October 24, 1985.

James M. Seif,

Regional Administrator.

[FR Doc. 85-27017 Filed 11-8-85; 1:26 pm]

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Federal Register

Vol. 50, No. 218

Tuesday, November 12, 1985

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List November 8, 1985.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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1, 2 (2 Reserved)	$5.50	Apr. 1, 1985
3 (1984 Compilation and Parts 100 and 101)	7.50	Jan. 1, 1985
4	12.00	Jan. 1, 1985
5 Parts:		
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7 Parts:		
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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1985. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.